

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

- - - - -x
CAROL S. MARCELLIN, individually, and
as Co-Administrator of the Estate of
Charles E. Hollowell, deceased, and
JESSICA HOLLOWELL-McKAY, as
Co-Administrator of the Estate of
Charles E. Hollowell, deceased,

Plaintiffs,

-against- Civil Action No.
1:21-cv-00704-JLS
HP, INC., and STAPLES, INC.,
Defendants.

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REMOTE VIDEOCONFERENCE
New York, New York
March 20, 2025
10:00 a.m.

EXAMINATION BEFORE TRIAL of ANDREW
LITZINGER, the Expert Witness herein,
held remotely via Zoom at the
above-mentioned time, pursuant to
Court Order, before Ilysa A. Linzer, a
Court Reporter and Notary Public in
and for the State of New York.

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A P P E A R A N C E S:

FARACI LANGE, LLP
Attorneys for Plaintiffs
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Rochester, New York 14614

BY: STEPHEN SCHWARZ, ESQ.

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Attorneys for Defendants
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Boston, Massachusetts 02110

BY: BENJAMIN LEVITES, ESQ.

1

2 FEDERAL STIPULATIONS

3

4 IT IS HEREBY STIPULATED AND AGREED
5 by and between the attorneys for the
6 respective parties herein, that filing
7 and sealing be and the same are hereby
8 waived.

9

10 IT IS FURTHER STIPULATED AND
11 AGREED that all objections, except as
12 to form of the question, shall be
13 reserved to the time of the trial.

14

15 IT IS FURTHER STIPULATED AND
16 AGREED that the within deposition may
17 be sworn to and signed before any
18 officer authorized to administer an
19 oath, with the same force and effect
20 as if signed and sworn to before this
21 Court.

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1

2 A N D R E W L I T Z I N G E R ,

3 the Expert Witness herein, after

4 having presented a

5 government-issued identification

6 for verification, has been duly

7 sworn by the Notary Public, was

8 examined and testified as follows:

9 THE COURT REPORTER:

10 Can you please state your

11 name for the record?

12 THE WITNESS: Andrew

13 Litzinger.

14 THE COURT REPORTER:

15 Can you please state your

16 home address?

17 THE WITNESS: 747

18 Saffron Lane, Webster, New

19 York 14580.

20 THE COURT REPORTER:

21 Before we get started,

22 does everyone agree to the

23 usual Federal Stips?

24 MR. LEVITES: Yes.

25 MR. SCHWARZ: Yes.

1 A. LITZINGER

2 EXAMINATION BY

3 MR. LEVITES:

4 Q. It is nice to meet you,
5 Mr. Litzinger. My name is Benjamin
6 Levites. I represent the Defendants
7 in this case, HP and Staples.

8 So we have with us the court
9 reporter, Ms. Linzer. We have your
10 attorney, Mr. Schwarz, and I will be
11 asking you questions about a lawsuit
12 filed by Carol Marcellin and Jessica
13 Hollowell-McKay concerning a fire on
14 January 24, 2020, at the residence of
15 Carol Marcellin and Charles Hollowell.
16 Attorney Schwarz may do so as well.

17 My first question is, do you
18 understand we are here today
19 concerning Ms. Marcellin's lawsuit
20 with respect to the fire at her
21 residence on January 24, 2020?

22 A. Yes.

23 Q. Have you been deposed
24 previously, Mr. Litzinger?

25 A. Yes, I have.

1 A. LITZINGER

2 Q. When were you previously
3 deposed?

4 A. It has been -- it should be
5 in my CV, but I have been deposed I
6 think five or six times now.

7 Q. Okay.

8 A. Most recent was October.

9 Q. Okay. So you have some
10 familiarity with the process. I am
11 going to get through these preliminary
12 rules as quickly as possible because
13 you have familiarity.

14 The goal of today is to
15 produce a written transcript of our
16 conversation that reads question and
17 answer, question and answer and so on.
18 Is that okay?

19 A. Yes.

20 Q. So in a normal conversation
21 I appreciate when you anticipate the
22 rest of my question, but so that we
23 can get that same transcript you will
24 have to allow me to finish my
25 question. So if I hold my hand up I

1 A. LITZINGER

2 am not trying to be rude, I am just
3 trying to indicate that I am still
4 asking a question. Is that all right?

5 A. Yes.

6 Q. Okay. Equally if you are
7 giving an answer I will make every
8 effort not to start another question
9 before you are finishing. If I do so,
10 please let me know that you haven't
11 finished an answer. Is that okay?

12 A. Yes.

13 Q. This part is extra important
14 because we are on Zoom. Do you agree
15 not to use your cell phone or other
16 electronic devices during the
17 deposition when we are not on a break?

18 A. Yes.

19 Q. You can take a break at any
20 time for any reason that you would
21 like. My only request is that you --
22 if there is a question pending that
23 you answer it before we take the
24 break. Is that all right?

25 A. Yes.

1 A. LITZINGER

2 Q. I will try to put them in
3 every hour, hour and a half, something
4 like that.

5 Do you have any notes or
6 documents with you today?

7 A. I just have a copy of my
8 final report.

9 Q. Okay. Do you agree not to
10 refer to any notes or documents other
11 than those we review together in the
12 deposition?

13 A. Yes.

14 Q. Okay. Is there anyone else
15 present in the room with you today?

16 A. No.

17 Q. Sir, you are doing an
18 amazing job so far, but if you can
19 keep giving verbal answers, so saying
20 yes or no instead of shaking your
21 head. Similarly the transcript won't
22 capture tones, so try to avoid answers
23 like "uh-huh" and "uh-uh" if that's
24 all right. Okay?

25 A. Yes.

1 A. LITZINGER

2 Q. What did you do to prepare
3 for this deposition without telling me
4 the substance of any conversations
5 that you might have had with Attorney
6 Schwarz or anyone in his firm?

7 A. Outside of preparation with
8 my attorney, I reviewed all notes,
9 photos, and documentation as it
10 pertains to this loss.

11 Q. Okay. The notes were notes
12 that you took, or notes from others,
13 or both?

14 A. It would be Jason
15 Karasinski, the O and C for this file.
16 I reviewed his report, his photographs
17 and notes as well as my own
18 documentation, and as well Mr. -- I
19 apologize, I forget -- I am very bad
20 with names.

21 Q. Dr. Martin?

22 A. Thank you.

23 Q. So you looked at
24 Mr. Karasinski's photos and notes,
25 Dr. Martin's report. Did you have any

1 A. LITZINGER

2 photos or notes that you took?

3 A. Yes.

4 Q. Okay. And you reviewed
5 those as well?

6 A. I did.

7 Q. Have you spoken about this
8 case with anyone other than Attorney
9 Schwarz and Mr. Karasinski?

10 A. No, I have not.

11 Q. What did Mr. Karasinski tell
12 you in preparation of your report?
13 You can talk generally if you had a
14 lot of conversations or anything like
15 that.

16 A. Just the details and the
17 facts of the case. I was at the joint
18 scene exam with Mr. Karasinski, so we
19 both have a lot of the same
20 information.

21 Q. Did you review any other
22 documents in preparation for the
23 deposition today other than the ones
24 we just mentioned?

25 A. Nothing outside of what was

1 A. LITZINGER

2 in my -- stipulated in my report.

3 There was a scan of the computer that
4 was done very early on, the subject
5 computer. I did briefly look at that.
6 That would be the most substantial
7 other than our typical 921 and
8 anything related to that.

9 Q. Without getting into too
10 exhaustive of a list, what is related
11 to a typical 921?

12 A. So for 921 it would be
13 looking at things such as arc survey,
14 arc mapping. Primarily the arc
15 survey, arc mapping section of Chapter
16 6 and Chapter 9, which is the
17 electrical section.

18 Q. Did you perform an arc
19 survey in this case?

20 A. Yes, I did.

21 Q. Did you do arc mapping in
22 this case?

23 A. So an arc survey is used to
24 create an arc map, so yes, I did.

25 Q. So you created an arc map in

1 A. LITZINGER

2 this case?

3 A. If there was any electrical
4 activity or arcing identified at the
5 scene, yes.

6 Q. Was there any arcing
7 activity at the scene?

8 A. Not identified at the scene,
9 no.

10 Q. So you didn't create an arc
11 map because there was no arcing; is
12 that fair to say?

13 A. Yes. So we would have
14 created -- we created a diagram of the
15 scene, but there is no information as
16 it pertains to any arcing that was
17 found at the scene because none was
18 found.

19 Q. Did you take any medication
20 today, sir?

21 A. I did not.

22 Q. Are you able to sit through
23 this deposition and answer questions
24 comfortably?

25 A. Yes.

1 A. LITZINGER

2 Q. Okay. Can you review
3 documents if I displayed them on your
4 screen here?

5 A. Yes, I can.

6 Q. If you need me to magnify
7 them or move them around, please let
8 me know and I will do that for you.
9 Okay?

10 A. Yes.

11 Q. Are you familiar with HP as
12 a company?

13 A. Yes, I am.

14 Q. What is HP?

15 A. They primarily produce
16 computers.

17 Q. Okay. You understand that
18 the allegations in this case are that
19 HP produced a defective product that
20 caused the fire in this case?

21 A. Yes.

22 Q. Okay. So you understand
23 that that's the ground of the claim
24 here?

25 A. That's my understanding,

1 A. LITZINGER

2 yes.

3 Q. And it is a serious claim;
4 right?

5 A. Yes.

6 Q. Okay. And you applied the
7 scientific method to your analysis of
8 the serious claim?

9 A. Yes, I did.

10 Q. And you agree that part of
11 the scientific method is to be able to
12 test the adequacy and accuracy of your
13 hypotheses?

14 A. Yes.

15 Q. What do you know about the
16 history of this HP computer,
17 Ms. Marcellin's notebook?

18 A. It was -- I am going off
19 memory, so it was an older computer of
20 hers. She had purchased a newer
21 computer, which we did collect that as
22 evidence. She was running, I believe,
23 it was some updates that the last time
24 she used it she was running some
25 updates.

1 A. LITZINGER

2 Q. Is product history something
3 you would consider in the assessment
4 of a particular product that is
5 alleged to have caused the fire?

6 A. I am sorry, can you repeat
7 that, please?

8 Q. Yes. So my question is, is
9 product history something that you
10 should consider in assessing a product
11 that's alleged to have caused the
12 fire?

13 MR. SCHWARZ: Objection
14 to the form. He wasn't
15 hired to assess the
16 product, but you can
17 answer the question if you
18 can.

19 A. Yes, but that would be
20 outside of the scope of my
21 investigation.

22 Q. Okay. So you didn't look at
23 the history of this product?

24 A. We collected information
25 from Ms. Marcellin about the product,

1 A. LITZINGER

2 about the history of the product, but
3 that was not part of my scope of the
4 investigation.

5 Q. Okay. So some information
6 was collected from Ms. Marcellin about
7 the history of the product. Was there
8 any information about the model in
9 particular that you collected or that
10 your team collected?

11 A. I am not sure I understand
12 your question. I am sorry.

13 Q. That's okay. So you said
14 that you collected information with
15 Ms. Marcellin about her personal
16 history with the product with that
17 particular notebook. My question is,
18 do you know anything about the history
19 of this model generally?

20 A. Do you mean this particular
21 model in terms of HP, or this model as
22 in terms of Ms. Marcellin?

23 Q. In terms of HP. Thank you.

24 A. I did not look -- I don't
25 have that information.

1 A. LITZINGER

2 Q. Would you agree with me that
3 the use and operation of an appliance
4 should be well understood before it is
5 identified as the cause of a fire?

6 A. I think every effort should
7 be made to do that, but the -- yeah.

8 Q. Would you agree that the
9 degree of damage to an appliance is
10 not an adequate indication of a fire's
11 origin?

12 A. Yes.

13 Q. That's because an appliance
14 can be damaged in a fire as opposed to
15 causing a fire; right?

16 A. That's correct.

17 Q. And this is more so in a
18 circumstance where an appliance might
19 have a fuel in it like a battery pack
20 and a notebook computer; right?

21 A. That would be taken into
22 consideration.

23 Q. Do you know if there are any
24 other lawsuits alleging that this
25 model of notebook caused the fire?

1 A. LITZINGER

2 A. I am not aware of that, no.

3 Q. Ms. Marcellin was deposed on
4 July 23rd and July 24th; right?

5 A. I don't know what the -- I
6 don't know the dates off the top of my
7 head.

8 Q. Have you seen both
9 transcripts for her deposition?

10 A. I have seen the first
11 transcript. I did not look at the
12 second one.

13 Q. So the first transcript was
14 of the July 23rd deposition; does that
15 sound right?

16 A. Again, on the dates, I don't
17 have the dates committed to memory, so
18 I will have to defer to you on that
19 one.

20 Q. The reason I am asking about
21 the dates is because I am curious if
22 you were retained before she was
23 deposed or after, if you know?

24 A. Before.

25 Q. So prior to 23?

1 A. LITZINGER

2 A. That's correct.

3 Q. Because you were at the
4 scene exam?

5 A. That's correct.

6 Q. Okay. Do you remember when
7 you were engaged in this matter?

8 A. I will have to look at the
9 date. I don't know when FRT as a
10 company was retained. I know that --
11 but I was present for the joint scene
12 examination on 2/27/2020.

13 Q. You were certainly retained
14 by 2/27/2020; is that fair to say?

15 A. Yes.

16 Q. All right. Did you -- when
17 you reviewed Ms. Marcellin's first
18 transcript there, did you have any
19 questions that came to mind that
20 weren't answered in her deposition
21 that you wanted to ask her?

22 A. No.

23 Q. Did you, yourself, ever
24 interview Ms. Marcellin?

25 A. I did not.

1 A. LITZINGER

2 Q. Did Mr. Karasinski interview
3 Ms. Marcellin?

4 A. I believe he did.

5 Q. Do you know if it was
6 recorded?

7 A. I do not know the answer to
8 that question.

9 Q. Okay. As you sit here
10 today, are there any questions you
11 would have liked to ask Ms. Marcellin
12 if you were given the chance?

13 A. No.

14 Q. Did you ever ask to speak
15 with her?

16 A. I did not.

17 Q. Was there any reason you
18 didn't ask to speak with her?

19 A. Jason Karasinski, he did the
20 interviews. He asked what I felt was
21 all relevant questions at the time, so
22 I had no reason to ask her questions.

23 Q. So you said you reviewed her
24 deposition transcript. Did you review
25 her witness statement from the fire?

1 A. LITZINGER

2 A. I did. If you have
3 something specific I would have to
4 look at that.

5 Q. Understood. Did you review
6 her affidavit?

7 A. I believe that was taken
8 semi recently.

9 Q. Correct.

10 A. I did review it. Again, if
11 you have a specific question I would
12 have to see it again.

13 Q. And that was created after
14 your report was written; correct?

15 A. Yes.

16 Q. Do you know what the
17 circumstances of its creation were?

18 A. I believe it was in regard
19 to additional information that was
20 brought up by your experts.

21 Q. Who do you understand
22 interviewed her to create that
23 affidavit?

24 A. I believe my attorney did
25 that.

1 A. LITZINGER

2 Q. Okay. Other than the
3 witness statement, the depositions,
4 and affidavit, are you aware of any
5 other statements from her,
6 Ms. Marcellin, that were memorialized
7 in writing?

8 A. Not that I am aware of.

9 Q. Did anyone from FRT take a
10 written statement of Ms. Marcellin?

11 A. Outside of initial witness
12 statements, not that I am aware of.

13 Q. Do you know if there is any
14 reason why FRT didn't take a witness
15 statement?

16 A. I believe Jason Karasinski
17 did speak with Ms. Marcellin around
18 the time of the joint scene
19 examination, but after that I don't
20 know if he had any further follow-up
21 with her.

22 Q. Do you know if Ms. Marcellin
23 had any issues with respect to her
24 memory?

25 A. Not that I am aware of.

1 A. LITZINGER

2 Q. How would you know one way
3 or the other if you didn't speak with
4 her?

5 MR. SCHWARZ: Objection
6 to the form of the
7 question. You can answer.

8 A. That would have come from my
9 O and C, Jason Karasinski.

10 Q. Are you aware that she
11 needed to change her answers in this
12 case previously?

13 MR. SCHWARZ: Objection
14 to the form of the
15 question. Irrelevant.

16 Q. You can answer,
17 Mr. Litzinger.

18 A. Can you ask the question
19 again? I am sorry.

20 Q. Yeah. Are you aware whether
21 she needed to change her answers in
22 this case previously?

23 MR. SCHWARZ: Same
24 objection.

25 A. I believe that may have

1 A. LITZINGER

2 occurred. I don't recall off the top
3 of my head.

4 Q. Do you find her statements,
5 meaning, her witness statement that
6 you looked at, the deposition that you
7 reviewed, and her affidavit to be
8 consistent with each other?

9 A. I believe there are
10 consistencies, yes.

11 Q. Well, I understand there are
12 some consistencies, but would you
13 describe them as consistent with one
14 another, or inconsistent with one
15 another, or would you use some other
16 term?

17 A. Well, I guess I would need
18 more specifics in order to say one way
19 or the other on that. I don't want to
20 throw blanket yes to that question.

21 Q. So you don't know if they
22 are consistent or inconsistent without
23 looking at them more specifically?

24 A. I would need more specifics
25 to be able to answer that question.

1 A. LITZINGER

2 Q. Okay. So when you were
3 formulating your report, and you were
4 looking at these three different
5 statements, did you rely on one
6 particularly?

7 MR. SCHWARZ: Objection
8 to the form of the
9 question. You asked him
10 three different statements
11 and his report. Are you
12 referring in some sense to
13 her affidavit which was
14 done after his report, or
15 are you referring to some
16 other statement when you
17 are talking about three
18 statements?

19 MR. LEVITES: The three
20 statements are her witness
21 statement, the deposition
22 that -- the three
23 statements he reviewed;
24 the witness statement, the
25 deposition that he

1 A. LITZINGER
2 reviewed, and the
3 Affidavit.

4 MR. SCHWARZ: Right,
5 but the Affidavit came
6 after his report. Your
7 question was premised on
8 what he looked at when he
9 wrote his report. That's
10 why I brought it up. He
11 didn't have her affidavit
12 at the time he wrote his
13 report.

14 Q. Okay. Why don't we focus on
15 the things you had at the time of your
16 report that you reviewed, which was
17 the fire department statement, and the
18 deposition; is that right?

19 A. The fire department -- any
20 statements made around the initial
21 scene examination and the first
22 deposition?

23 Q. That's right.

24 A. So can you just -- and you
25 are asking me what? I am sorry.

1 A. LITZINGER

2 Q. With respect to those two
3 documents, did you notice any
4 inconsistencies between them?

5 A. I don't recall off the top
6 of my head, no.

7 Q. Okay. Did you find her
8 statements in those two documents to
9 be consistent with the physical
10 evidence that you discovered during
11 your examination?

12 A. I don't recall that off the
13 top of my head.

14 Q. Okay. Did you find her
15 statements, meaning, the two we are
16 talking about; the deposition
17 statement and the statement she gave
18 at the time of the fire, did you find
19 them to be credible?

20 A. At the time, yes, but my
21 investigation is focused on the
22 evidence, what the evidence tells me
23 also.

24 Q. Okay. Do you find them to
25 be credible today?

1 A. LITZINGER

2 A. Yes.

3 Q. Do you have any notes that
4 Mr. Karasinski gave you from his
5 interviews?

6 A. We have those in our
7 repository, but I don't have those in
8 front of me today, no.

9 Q. Have you reviewed them
10 previously?

11 A. I have.

12 Q. Okay. When you reviewed
13 those notes, did you find that her
14 statements were consistent with the
15 other things that we just talked
16 about, meaning, her statements at the
17 time of the fire and in the deposition
18 that you reviewed?

19 A. I apologize, I am thinking.

20 Q. Please, take your time.

21 A. I believe there were some
22 inconsistencies as far as where things
23 may have been located in regards to
24 the closet, but other than that, most
25 things were consistent.

1 A. LITZINGER

2 Q. Which inconsistencies with
3 respect to the closet do you remember?

4 A. The presence of an old
5 laptop.

6 Q. Is there anything else that
7 you remember?

8 A. Not that I recall off the
9 top of my head, but if you ask me a
10 specific question it may spark
11 something later on.

12 Q. Okay. What is your full
13 name, Mr. Litzinger?

14 A. My full name is Andrew David
15 Litzinger.

16 Q. And have you ever gone by
17 any other name?

18 A. Just Andy.

19 Q. What is the address of your
20 primary residence?

21 A. 747 Saffron Lane, Webster,
22 New York 14580.

23 Q. When did you move to Saffron
24 Lane?

25 A. I bought my house five years

1 A. LITZINGER

2 ago. So I believe -- what are we in,
3 March? About March 2020 is when I
4 bought my house.

5 Q. Okay. Do you know of anyone
6 other than the people mentioned in
7 your report, and the individuals we
8 discussed already, meaning,
9 Attorney Schwarz, Ms. Marcellin,
10 Mr. Karasinski, Dr. Martin, is there
11 anyone else that knows anything about
12 this incident?

13 MR. SCHWARZ: Object to
14 the form of the question.

15 A. Not that I am aware of, no.

16 Q. If you can give me a brief
17 summary of your educational background
18 from high school to your highest level
19 of educational attainment?

20 A. Sure. Brief summary would
21 be I graduated high school in 2003. I
22 joined the United States Marine Corps.
23 I did five years active duty where I
24 got out with an E5 sergeant. And in
25 that time period I became FAA

1 A. LITZINGER

2 certified to -- certified unmanned
3 aircraft safer flight, which is a
4 pretty big certification.

5 From there I graduated -- I
6 left there and went to college to be
7 an electrician where I graduated with
8 honors. That's more of a trade
9 school.

10 Then after that I went back
11 to school to -- for electrical
12 engineering. I graduated from Monroe
13 Community College in approximately
14 2013 with an associate's degree in
15 engineering. Then from there I went
16 to Rochester Institute of Technology
17 where I graduated in spring of 2016
18 with a bachelor's degree in electrical
19 engineering.

20 Q. Okay. That's very helpful.
21 Do you have any licenses or
22 certificates?

23 A. I don't have any licenses.
24 I have certificates in different
25 areas.

1 A. LITZINGER

2 Q. Okay. Could you talk about
3 the ones that were pertinent to your
4 report here first?

5 A. Certificates?

6 Q. Correct.

7 A. So pertinent to this case my
8 degree as an electrician coupled with
9 my degree in electrical engineering
10 allows me to evaluate the building's
11 electrical system as a whole as well
12 as my degree in electrical engineering
13 helps me look, you know, at potential
14 failures in appliances and anything
15 electrically connected, it helps me in
16 that evaluation.

17 Q. Okay. But you mentioned you
18 had a number of certificates too, so I
19 am just wondering if there are any
20 certificates that you particularly
21 relied on in formulating this report?

22 A. No. My certificate, no.

23 Q. Okay. I guess what is the
24 most recent certificate you have
25 received in respect of this work?

1 A. LITZINGER

2 A. As it pertains to this case
3 or --

4 Q. Just generally.

5 A. Generally my most -- I have
6 an ABYC Marine Electrical Technician
7 Certification, but that applies to
8 boats.

9 Q. Okay. Are you a
10 professional engineer?

11 A. I do not have my
12 professional engineer license.

13 Q. Are you -- do you have any
14 professional background in computer
15 design?

16 A. I do not.

17 Q. You were with the Military,
18 and so that deals with those
19 questions. I apologize, should I be
20 addressing you as Sergeant Litzinger?

21 A. No, no, no. I am no longer
22 active duty, but thank you.

23 Q. Understood.

24 Have you ever personally
25 been involved in a civil lawsuit,

1 A. LITZINGER

2 meaning, you sued someone, or they
3 sued you?

4 A. Personally, no.

5 Q. What about criminal
6 proceedings, have any charges been
7 brought against you?

8 A. No.

9 Q. Any other kind of lawsuits,
10 arbitrations, anything like that,
11 again, personal to you?

12 A. No.

13 Q. Okay. So we already talked
14 a little bit about this. I think you
15 have kind of brought me up to 2016
16 with respect to your employment
17 history, but if you can give me a
18 brief summary of the positions you
19 have held, and the responsibilities
20 you have held since retiring from
21 active duty with the Military?

22 A. Sure. What I -- while I was
23 in college, my first time in college,
24 my electrician's degree to make it
25 easy, I worked for a company called

1 A. LITZINGER

2 Blackmon-Farrell Electric where I did
3 project management and project
4 estimation. Basically what I did
5 there is I would take engineering
6 drawings and determine a cost estimate
7 for our company to be able to complete
8 that work based on either the new
9 conditions that are there, or the
10 existing conditions. Once those -- if
11 we did win those bids I would then
12 manage that project from beginning to
13 end.

14 From there while I was in
15 school, and part time while -- in
16 school for my engineering degree I did
17 work for Picard Engineering. While I
18 was there I did what is called MEP
19 work, it is mechanical, electrical,
20 plumbing. I didn't do any mechanical
21 or plumbing in that regards, but I did
22 the electrical. That pertained to
23 doing anywhere from residential to
24 industrial or commercial design work.
25 So in that instance I would do -- I

1 A. LITZINGER

2 would evaluate generator systems to
3 upgrade those or bring those up to
4 current code and compliance.

5 I did work for the hospitals
6 in their infectious disease ward to
7 design the electrical systems for part
8 distribution all the way to the
9 electrical system in terms of
10 receptacles, things of that nature.

11 I did solar panel design and
12 layout as well as other types of
13 renewal energy such as wind. I did
14 game and casinos.

15 I did work for a Lockheed
16 Martin designing some of their
17 infrastructure. Whenever they get a
18 new project they would basically gut
19 an entire facility to set up a new
20 area electrically for whatever new
21 project they had.

22 Then from there when I
23 graduated from RIT with my bachelor's
24 in electrical engineering I came to
25 work for FRT.

1 A. LITZINGER

2 Q. So basically your entire
3 career since getting your degree in
4 2016 from RIT has been with FRT?

5 A. My full-time career, that's
6 correct.

7 Q. Okay. So you talked about
8 gutting and setting up these areas for
9 Lockheed Martin, and also just
10 generally electrical design for
11 residential and commercial spaces;
12 right?

13 A. That's correct.

14 Q. So would you know a lot
15 about how a properly wired house is
16 supposed to look?

17 A. That's correct.

18 Q. You know, pull the walls off
19 and you can see if it was a hasty job,
20 or if everything is nice and neat kind
21 of thing?

22 A. Yes.

23 Q. Okay. How would you
24 characterize the electrical system of
25 the Marcellin residence based on your

1 A. LITZINGER

2 experience in designing new builds and
3 things like that?

4 A. I would say it was typical
5 of that type of structure. This was
6 what I would call more of a modular
7 home, so that would be pretty
8 consistent with those types of wiring.

9 Q. So did it look to you like
10 old? New? Recently redone? Can you
11 comment on, I guess, the
12 characteristics of the wiring as it
13 were?

14 A. In terms of age I can tell
15 you it wasn't anything recent, but
16 outside of that I don't have much
17 information.

18 Q. Was it messy, or was
19 everything cabled nicely?

20 A. I didn't see anything wrong
21 with the installation.

22 Q. I live in a 1941 house, and
23 I had to redo the electric and it was
24 full of old stuff that wasn't
25 connected to anything, right. So

1 A. LITZINGER

2 there is an old doorbell chime that
3 doesn't go anywhere, and there's a
4 cloth-wrapped wire in the wall that
5 isn't connected to any outlet. Did
6 you see anything like that in the
7 Marcellin home, any old or essentially
8 extent-type wiring?

9 A. No, I did not.

10 Q. So everything looked like it
11 was going somewhere?

12 A. Yes.

13 Q. It all had a purpose?

14 A. That's correct.

15 Q. And it was pretty neat and
16 orderly behind the walls?

17 A. Yes.

18 Q. Was everything in channels,
19 or was it just out when you took the
20 wall off?

21 A. I am sorry, I don't know
22 what you mean by channels.

23 Q. I mean, were the electrical
24 supply cables, again, this is a total
25 laymen speaking. When we did our

1 A. LITZINGER

2 house the building inspector said,
3 here, here, and here you need to have
4 a guard, or a plastic tubing, or
5 basically an insulator for the cables
6 at various points in the house because
7 it was semi-accessible to a crawl
8 space for instance, so they said you
9 can't have the bare cable. Am I
10 making any sense, Mr. Litzinger?

11 A. Yes, I understand.

12 Q. So do you know what I mean
13 by saying were the cables in channels
14 at all behind the wall?

15 A. I believe I understand. To
16 answer your question, the -- so it was
17 a two-by-four framing, so in this type
18 of residence -- this type of structure
19 the wires would have been considered
20 concealed behind the wallboard.

21 So in that typical -- so it
22 would be typical and allowable by
23 code. What they would do is they
24 would drill holes through the studs,
25 and they would run their wires through

1 A. LITZINGER

2 the wall studs, which is acceptable.

3 Since it is concealed there is no

4 protection wire required.

5 There were nailer plates on

6 the studs where those wires did go

7 through the holes in the studs, and

8 those nailer plates are used to

9 protect from any potential, you know,

10 of drywall, or nails or if they shoot

11 a nail through there it is not going

12 to damage the wire.

13 Q. Okay. Thank you for reading

14 between the lines of my question, I

15 appreciate that.

16 You mentioned that this was

17 allowable by code, and I understand it

18 is exactly what we were talking about

19 with the building inspector, right,

20 when it is fully concealed you don't

21 need those channels, those protection.

22 When you mention the code

23 thing it got me thinking, was there --

24 was the house generally, did it appear

25 to be consistent with the code as you

1 A. LITZINGER

2 understood it at the time?

3 A. Yes.

4 Q. So it generally looked up to
5 code?

6 A. I wasn't looking at it from
7 that perspective. I wasn't looking
8 for code violations, but what I did
9 observe appeared to be correct.

10 Q. Okay. So fair to say you
11 weren't looking for code violations,
12 but you certainly didn't see any in
13 your examination of the residence?

14 A. That's correct.

15 Q. Okay. Have you ever worked
16 in computer manufacturing?

17 A. I have not.

18 Q. Do you have any professional
19 background in battery pack design?

20 A. Design, no.

21 Q. How about battery cell
22 design?

23 A. I have learned about battery
24 cell design to a limited degree in
25 doing what we are doing, what I do in

1 A. LITZINGER

2 the fire investigation field trying to
3 learn and understand about those, but
4 I haven't taken any formal training as
5 far as a degree program.

6 Q. Do you have any professional
7 background in battery pack and cell
8 manufacturing?

9 A. I do not.

10 Q. Have you ever written any
11 peer-reviewed articles about notebook
12 computers?

13 A. I have not.

14 Q. How about lithium-ion
15 batteries?

16 A. I have not.

17 Q. Have you ever been in a
18 notebook computer manufacturing
19 facility?

20 A. I have not.

21 Q. Have you ever been in a
22 battery manufacturing facility?

23 A. I have not.

24 Q. Have you ever obtained a
25 PET?

1 A. LITZINGER

2 A. No.

3 Q. Have you ever been qualified
4 as an expert in human factors?

5 A. I am not familiar with what
6 you mean by that.

7 Q. Fair to say you don't hold
8 yourself out as an expert in human
9 factors?

10 A. I don't know how to answer
11 that because I don't understand what
12 you are asking me.

13 Q. Okay. How about an expert
14 on product warnings, do you hold
15 yourself as an expert in product
16 warnings?

17 A. I do evaluate them. For
18 this case that's outside of the scope
19 of my investigation.

20 Q. So you didn't look at any
21 warnings here?

22 A. Once again, if you have a
23 specific warning, I did review all of
24 the evidence so if there is a warning
25 to review, I did review it, but I

1 A. LITZINGER

2 would have to have a more specific
3 example of that.

4 Q. Okay. But assessing the
5 warnings in this case wasn't part of
6 the purview of your engagement; is
7 that fair to say?

8 A. Correct. That's outside of
9 the scope of my investigation.

10 Q. Okay. Have you ever been
11 qualified as an expert in fire
12 investigation by any court?

13 A. Yes, I have.

14 Q. Do you hold yourself out as
15 an expert in fire investigation?

16 A. In the electrical aspects of
17 fire investigation, that's correct.

18 Q. I would like to dial in a
19 little bit on that. So what is the
20 distinction between being an expert in
21 fire investigation generally, and
22 being an expert in the electrical
23 aspect of fire investigation?

24 A. So typically if there is a
25 line of delineation it would be

1 A. LITZINGER

2 that -- well, Jason Karasinski, our
3 origin and cause expert, he looks at
4 fire patterns. That's where he would
5 be looking at the fire dynamics and
6 fire patterns of that particular
7 aspect of a fire in general.

8 When there is a perceived,
9 or thought to be an electrical cause,
10 whether it is the building or some
11 sort of a product, that's when I would
12 be engaged to take a look at the
13 evidence and/or the scene to do my
14 portion of the evaluation.

15 Q. And your portion of the
16 evaluation is to look at whether there
17 is an electrical cause, meaning, the
18 building or a product?

19 A. Simply put, yes.

20 Q. And that's what you were
21 engaged to do in this case?

22 A. That's correct.

23 Q. So is it fair to say you are
24 not a cause and origin expert?

25 A. That was not part of my

1 A. LITZINGER

2 scope for this investigation.

3 Q. That's Mr. Karasinski;

4 right?

5 A. That's correct.

6 Q. Are you a notebook battery

7 design expert?

8 A. I have not designed a

9 battery -- notebook battery before.

10 Q. Are you a mechanical

11 engineer?

12 A. No, I am not.

13 Q. Have you ever been the

14 subject of a Daubert challenge, if you

15 know what that means?

16 A. Yes, I have.

17 Q. Do you know what the outcome

18 of that was?

19 A. I was not precluded, if

20 that's the correct -- I passed.

21 Q. That's the correct way to

22 say it.

23 Are you a member of NFPA?

24 A. I do serve on a special task

25 force. I will call it a task group, I

1 A. LITZINGER

2 guess, not task force, for Chapter 6
3 and Chapter 9 review. I was part of
4 the Chapter 9 review most recently due
5 to -- I was part of that task group
6 for the current edition that's out
7 now. I helped write the Chapter 9
8 section.

9 Q. And that's the 2024 edition?

10 A. That's correct.

11 Q. Are you a member of the
12 NAFI?

13 A. I am a member of NAFI,
14 correct.

15 Q. Have you published any
16 articles on cause and origin or fire
17 investigation?

18 A. I have not.

19 Q. I think I know the answer to
20 this one seeing as you wrote it, but
21 would you consider NFPA 921 to be an
22 authoritative and accepted guide on
23 the subject of fire and explosion
24 investigation?

25 A. Yes.

1 A. LITZINGER

2 Q. Would you consider Kirk's a
3 generally accepted guide or treatise
4 on fire and explosion investigation?

5 A. Yes, I would.

6 Q. I am going to turn to the
7 document marked as Exhibit 1, if I may
8 share, Madam Reporter. It looks like
9 I can.

10 (Whereupon, 26-page Andy
11 Litzinger report dated
12 October 14, 2024, was
13 marked Litzinger Exhibit 1
14 for identification, as of
15 this date.)

16 MR. SCHWARZ: Is that
17 his report?

18 MR. LEVITES: It is.

19 MR. SCHWARZ: He's got
20 a paper copy of that too
21 so you may not have to
22 share unless you want to.

23 Q. If you prefer to look at the
24 paper copy, Mr. Litzinger, that's
25 fine, and then we can all see each

1 A. LITZINGER

2 other a little bit better. If you
3 would like me to put up the specific
4 pages I can do that as well. Up to
5 you.

6 A. We can work from my paper
7 copy, that's fine. If we have to do a
8 screen share --

9 Q. Yeah, if you want me to pull
10 up a particular page if you can't find
11 it or something we can do that.

12 A. Sure.

13 Q. I have in front of me a
14 26-page document that begins with the
15 FRT logo, your origin and cause
16 solution, by Andy Litzinger. Do you
17 have that document in front of you?

18 A. I do.

19 Q. Okay. So the document is
20 dated on the first page October 14,
21 2024. Is that the one you have in
22 front of you?

23 A. It is.

24 Q. Okay. So for our purposes,
25 Mr. Litzinger, if we refer to your

1 A. LITZINGER

2 report it is going to be the report we
3 just identified as this October 2024
4 report, and we are marking as
5 Exhibit 1. Is that okay?

6 A. Yes.

7 Q. I am going to also mark as
8 Exhibit 2 the rebuttal report of
9 Mr. Karasinski dated December 31,
10 2024.

11 (Whereupon, rebuttal
12 report of Mr. Karasinski
13 dated December 31, 2024,
14 was marked as Litzinger
15 Exhibit 2 for
16 identification, as of this
17 date.)

18 Q. Do you have that,
19 Mr. Litzinger?

20 A. I do not have that.

21 Q. Okay. So I am just going to
22 put this up so we can ID it for the
23 reporter. Can you see that,
24 Mr. Litzinger?

25 A. Yes, I can.

1 A. LITZINGER

2 Q. So it states on page one of
3 this rebuttal report, "opinions
4 concerning the electrical system are
5 provided by senior forensic electric
6 consultant Andy Litzinger." That's
7 you; right?

8 A. Yes.

9 Q. My question is, did you
10 provide opinions in this December 31,
11 2024, report?

12 A. I did not.

13 Q. Okay. I am going to have
14 this marked as Exhibit 2, this
15 rebuttal report. We may not need to
16 go into it at all because it appears
17 that Mr. Karasinski's statement here
18 that opinions concerning the
19 electrical system were provided by
20 Mr. Litzinger that that's merely
21 referring the reader to your report of
22 October 14th that we just marked as
23 Exhibit 1; does that sound right?

24 A. That sounds correct.

25 Q. Okay. If we do get to this

1 A. LITZINGER

2 second exhibit, this rebuttal report
3 by Mr. Karasinski I will refer to it
4 as the rebuttal report. Okay?

5 A. Understood.

6 Q. Thank you.

7 So we mentioned
8 Mr. Karasinski a few times. Who is
9 Mr. Karasinski?

10 A. Mr. Karasinski is the owner
11 of Fire Research Technology as well as
12 the senior origin and cause expert.

13 Q. Okay. How do you work
14 together? Are you -- you described it
15 a little bit earlier, but maybe if you
16 can expand on that process?

17 A. So I guess I will use it in
18 general terms. Mr. Karasinski is --
19 would typically be what I would say,
20 he would go out to a fire scene
21 investigation and do his initial
22 evaluation. If there is, as I said
23 before, if there is electrical --
24 thought to be an electrical causation
25 or potential for that Mr. Karasinski

1 A. LITZINGER

2 would engage me, and have me come out
3 to the scene and evaluate the
4 electrical portion of our
5 investigation.

6 Typically he goes out first.
7 In this instance Mr. Karasinski and I,
8 our first time at the fire scene was
9 together. To my understanding he had
10 no previous interactions with -- or he
11 had not been on to the fire scene
12 prior to his and my first time.

13 Q. Okay. I think you kind of
14 answered my next question, which is,
15 what is the nature of your working at
16 the company? He is the owner, and he
17 engages you when his initial
18 evaluation discloses some potential
19 electrical issue.

20 When you say he engages you,
21 are you -- do you bill FRT hourly?
22 Are you a salaried employee? Is he
23 assigning you this work, or is he
24 retaining you as a consultant?

25 A. No, I am an employee of FRT.

1 A. LITZINGER

2 Q. Okay. So when he is
3 engaging you he is basically sending
4 you a message saying, are you
5 available, I have this investigation.
6 There might be an electrical issue. I
7 would like you to come out and perform
8 your analysis?

9 A. He is not engaging me
10 directly. It would go to our office
11 staff, which I call project
12 coordinators. Back then we didn't
13 have project coordinators. It would
14 have been, I will call it just our
15 lone secretary. Once it hits my
16 schedule then I would go out with him.
17 That's how we would operate. He is
18 not necessarily sending me any
19 particular information in that regard.

20 Q. Okay. Makes sense.
21 So who maintains the file
22 for a particular case?

23 A. I don't understand. What do
24 you mean by that?

25 Q. So to take this one as an

1 A. LITZINGER

2 example, Ms. Marcellin. Does
3 Mr. Karasinski maintain all of the
4 documents and records? Do you do it?
5 Do you both do it?

6 A. I understand. So we have a
7 file management system used by
8 attorneys, it is called Clio. We use
9 that as a repository for all of our
10 documentation, that's photographs,
11 notes, timekeeping. So we have a
12 repository where we would put all of
13 that information.

14 Q. So you're uploading
15 documents and notes to Clio, and so is
16 Mr. Karasinski?

17 A. That is correct.

18 Q. And you can both see each
19 other's documents, and work, and so
20 forth?

21 A. That is correct.

22 Q. Okay. Did you do any work
23 of significance to your opinions
24 that's not reflected in the two
25 reports we have marked here as

1 A. LITZINGER

2 Exhibits 1 and 2?

3 A. No.

4 Q. Did you incur any expenses
5 of significance that are not reflected
6 in your billing records?

7 A. Not that I am aware of.

8 Q. I am going to turn to page
9 20 of your report, which is your CV.

10 A. I have pages one through 19
11 here. I did not print out my CV.

12 Q. Not a problem. I will put
13 it up.

14 So we have your CV here. It
15 begins on page 20. It looks like it
16 is three pages total through page 23.
17 Is that your CV?

18 A. It is kind of small, but it
19 appears that way, correct.

20 Q. Let me see if I can blow it
21 up.

22 A. That's better.

23 Q. So starting on page 20. I
24 am going to scroll down. Let me know
25 if I need to slow down a little bit.

1 A. LITZINGER

2 I am just going to scroll so you can
3 see the three pages. It looks like it
4 goes through page 23 there.

5 Having reviewed this CV more
6 closely, can you answer whether that's
7 your CV?

8 A. That looks to be my CV,
9 that's correct.

10 Q. Okay. Do you know if it is
11 current, at least current as of the
12 date of this disclosure, which was
13 October of 2024?

14 A. It looks to be that way. I
15 have had some updates to it since
16 October because I believe my last
17 deposition was a week after this was
18 issued.

19 Q. Understood. Then on page 21
20 you will see there is a list of your
21 testimony, and it continues on to page
22 22. So these were the cases in which
23 you were previously deposed and we
24 talked about earlier; right?

25 A. Yes, it is.

1 A. LITZINGER

2 Q. Do you know how many cases
3 in which you were engaged to represent
4 the plaintiff, or to support the
5 plaintiff?

6 A. All of these were plaintiff.

7 Q. Okay. And are any of these
8 active matters?

9 A. Not that I am aware of, no.

10 Q. Have you been qualified as
11 an expert and testified at trial in
12 any of these cases?

13 A. I have not.

14 Q. What were the products
15 involved in these cases?

16 A. I will do my best from
17 memory here.

18 Q. Of course. I understand
19 some of these are five years old.

20 A. Bear with me, please.

21 The State of Massachusetts
22 loss involved a steam generator. That
23 one was a steam generator that had a
24 failure of the unit itself. The State
25 of New York involved a window fan,

1 A. LITZINGER

2 more specifically a shaded pole motor
3 failure. The -- can you scroll down a
4 little bit for me?

5 Q. Absolutely.

6 A. That's good. The State of
7 Pennsylvania deposition, that
8 involved -- there was no electrical
9 cause. It was an unattended candle
10 and a puppy unfortunately. I was
11 brought in to evaluate the electrical
12 system, and was -- I determined that
13 it was not a factor in the loss.

14 I do not recall the last one
15 that is on there, but I have had -- I
16 can say that I have had two more
17 depositions since then, I believe, now
18 that I am thinking about it. I
19 misspoke earlier.

20 Q. That's okay. For those two
21 cases, what were the products in
22 those?

23 A. One involved a RYOBI battery
24 pack, lithium-ion battery failure in
25 that case. And the other one involved

1 A. LITZINGER

2 a furniture power distribution unit,
3 or FPU, that was in a night stand.

4 Q. Okay. So none of these
5 involved notebook computers; fair to
6 say?

7 A. That is correct.

8 Q. It looks like the RYOBI case
9 was the one that -- the only one that
10 involved a lithium-ion battery?

11 A. That's correct.

12 Q. In the RYOBI case, do you
13 remember the law firms that were
14 involved?

15 A. I do not off the top of my
16 head.

17 Q. Do you remember the
18 circumstances of that case? Was there
19 a fire?

20 A. Yes, there was a fire. The
21 circumstances of that case, I remember
22 them, I can't say I remember all of
23 them.

24 Q. But generally, was it your
25 opinion that the RYOBI lithium-ion

1 A. LITZINGER

2 battery was implicated in the fire, or
3 ruled out, or something else?

4 A. Yes, they were implicated in
5 the fire.

6 Q. And was it your opinion that
7 the other sources could be ruled out,
8 but the RYOBI could not?

9 A. That's correct.

10 Q. Do you know what kind of
11 lithium-ion battery was in that RYOBI?

12 A. What do you mean by what
13 kind?

14 Q. I mean like what kind of
15 cell? Was it an 18650 cell like in
16 this notebook? Was it a little button
17 cell like in your watch?

18 A. Understood. It was an 18650
19 cell.

20 Q. Was it one? Two? Four? If
21 you remember.

22 A. I don't recall what the
23 capacity was of the battery pack off
24 the top of my head.

25 Q. Did all of these -- in each

1 A. LITZINGER

2 of the cases that we just talked
3 about, did you end up giving a formal
4 opinion in the form of a report?

5 A. Yes.

6 Q. Okay. Is it fair to say
7 that in each of the cases we talked
8 about except for the unattended candle
9 matter, that you concluded the --
10 actually, withdrawn.

11 Is it fair to say in each of
12 the cases we talked about you
13 concluded the building electrical
14 system was not the cause of the fire?

15 A. That's correct.

16 Q. Now, going back to your CV
17 here, and I can zoom out a little bit
18 so you can see more of it, is there
19 anything in here that as you sit here
20 today is either inaccurate or
21 incorrect that you would like to alert
22 us to? You told us about the
23 additional depositions you have since
24 given, but is there anything else, you
25 know, certificates, licenses,

1 A. LITZINGER

2 publications, any of this other stuff
3 here?

4 A. No.

5 Q. Okay. Is there anything
6 that you consider of importance or
7 significance to your opinions that you
8 gave in this case that's not in your
9 CV, meaning, you have some other kind
10 of experience that you brought to
11 bear, but it is not listed here on
12 these three pages?

13 A. Not that I am aware of, no.

14 Q. Okay. Do you know how much
15 you billed to date on this file?

16 A. I don't.

17 Q. Okay. Do you have any idea
18 of it? 1,000? 5,000? 10,000?

19 A. I do not.

20 Q. Okay. Do you know how many
21 hours you have worked on this case?

22 A. I do not.

23 Q. Would you say it is more
24 than one hour?

25 A. Yes.

1 A. LITZINGER

2 Q. Would you say it is more
3 than five hours?

4 A. Yes.

5 Q. Would you say it is more
6 than 20 hours?

7 A. Yes.

8 Q. Okay. Would you say it is
9 more than 50 hours?

10 A. I am going to say yes.

11 Q. Okay. Would you say it is
12 more than 100 hours?

13 A. I don't know at this point.

14 Q. Okay. So more than 50, but
15 you can't say if it is greater than
16 100; is that fair to say?

17 A. Yes.

18 Q. Okay. So you can say with
19 some confidence you worked at least
20 50 hours on this case?

21 A. Yes.

22 Q. Okay. Now, without telling
23 me the specifics of any communications
24 you have had with Attorney Schwarz or
25 with anyone from his law firm, how was

1 A. LITZINGER

2 it that you came to be retained in
3 this matter? I think you talked about
4 how you came to be involved with
5 Mr. Karasinski. Is there anything
6 beyond that that you can add? Was it
7 a consulting, you know, a referral
8 that you got? Did you get a call from
9 Attorney Schwarz's office? Was it
10 something else?

11 A. I don't know how typically
12 FRT is engaged. We are retained by --
13 in this instance it would be
14 Mr. Schwarz's office, but Jason
15 Karasinski was the one initially
16 engaged in it.

17 Typically FRT is engaged as
18 a company, and then we have an
19 investigator assigned such as
20 Mr. Karasinski, then I will be brought
21 in if the client deems it necessary.
22 Outside of that, I don't have a lot of
23 involvement in that.

24 Q. Understood. Have you worked
25 with Mr. Schwarz before this case?

1 A. LITZINGER

2 A. I have not.

3 Q. Have you worked with his
4 firm, Faraci and Lange, prior to this
5 case?

6 A. I don't believe so, no.

7 Q. Okay. So we went over your
8 report, which was October 14th that we
9 marked as Exhibit 1. We talked about
10 Mr. Karasinski's rebuttal that was
11 marked as Exhibit 2. Are there any
12 other reports out there that set forth
13 opinions or findings, your opinions or
14 findings that are different or
15 supplemental to these two reports that
16 we just marked?

17 A. Not that I am aware of, no.

18 Q. If we can turn to page 17 of
19 your report, which I --

20 MR. SCHWARZ: We have
21 been going an hour five
22 minutes. Do you mind
23 taking a five-minute break
24 about now?

25 MR. LEVITES:

1 A. LITZINGER

2 Absolutely. Let's make it
3 six minutes and I will see
4 you guys at 11:10.

5 THE WITNESS: Sounds
6 good. Thank you.

7 (Whereupon, a short
8 break was taken at this
9 time.)

10 Q. Mr. Litzinger, I asked you
11 before our break to turn to page 17 of
12 your report. Do you have that?

13 A. Yes, sir.

14 Q. Okay. So under the section
15 entitled, Conclusions, there are three
16 paragraphs that appear to be setting
17 forth your findings in this cause. Is
18 it fair to say that these paragraphs
19 represent a summary of your opinions
20 in the case?

21 A. Yes.

22 Q. Do you have any opinions of
23 significance that is not set forth on
24 this page?

25 A. No.

1 A. LITZINGER

2 Q. Did you do any work of
3 significance in reaching your opinions
4 on page 17 that is not reflected in
5 your report?

6 A. No.

7 Q. I asked you about
8 significant expenses, but did you
9 incur any expenses in doing your work
10 in this case?

11 A. Expenses, what do you mean
12 by expenses?

13 Q. Incidental expenses; travel,
14 copying, mailing, anything like that?

15 A. Not that I am aware of, but
16 there may be expenses that the office
17 has in there, as you said, copying,
18 but I don't know what those are.

19 Q. Okay. But nothing for you
20 for buying parts, or travel, or
21 anything like that?

22 A. Not that I recall. There
23 may have been something in there, but
24 I just don't recall.

25 Q. Okay. But anything of

1 A. LITZINGER

2 significance would have been in your
3 billing records?

4 A. Yes.

5 Q. Now, as an initial matter,
6 do you understand that the notebook
7 that is at issue in this case was an
8 HP Pavilion DV6?

9 A. Yes.

10 Q. For ease of reference today,
11 when I talk about the Pavilion, I am
12 talking about the Pavilion DV6 model,
13 and then when I talk about the
14 specific notebook, the one that
15 Ms. Marcellin had, I will call it the
16 Marcellin notebook. Is that okay?

17 A. So the -- sorry, can you say
18 that last part again?

19 Q. Yes. So when I am talking
20 about the model generally I am going
21 to say Pavilion. When I'm talking
22 about Ms. Marcellin's physical
23 notebook, the one that was in her
24 house, I will call it the Marcellin
25 notebook. Does that make sense?

1 A. LITZINGER

2 A. Understood.

3 Q. Okay. With respect to the
4 Marcellin notebook, the one that she
5 had, do you know when it was
6 manufactured?

7 A. I would have to look at the
8 markings on the computer to give you a
9 definitive answer on that.

10 Q. Has anyone else conveyed to
11 you when it was manufactured?

12 A. No.

13 Q. Okay. If I told you it was
14 manufactured in December 2010, does
15 that sound right to you?

16 A. The year 2010 does sound
17 familiar with regards to this case.
18 Like I said, I would have to look at a
19 photograph to refresh my memory.

20 Q. Okay. And then if you look
21 at pages two to three of your report
22 there is a list of materials you
23 reviewed beginning in the header,
24 services conducted in preparation of
25 this summary. Do you see that?

1 A. LITZINGER

2 A. Yes, I am there.

3 Q. Okay. And then I am going
4 to flip one more time to page 19. It
5 is the last page of the report that
6 you have. You will see there is a
7 header that says references, and there
8 are five documents listed there. Do
9 you see that?

10 A. Give me one second. I am
11 just going to get these so they are
12 easily -- okay.

13 Q. So you see the list of
14 references on 19?

15 A. Yes, I do.

16 Q. So my question,
17 Mr. Litzinger, is there anything you
18 reviewed in preparation of your report
19 that's not listed on pages two and
20 three or page 19?

21 A. No.

22 Q. Okay. So going back to
23 three.

24 A. Okay.

25 Q. You state that you

1 A. LITZINGER

2 personally examined the Marcellin
3 notebook, and that you attended two
4 examinations. Do you see that?

5 A. Are we looking in the
6 services conducted, or the synopsis
7 portion?

8 Q. Synopsis. Thank you.

9 A. Yes.

10 Q. Okay. So when did you
11 examine the Marcellin notebook? Was
12 it on February 27th, October 27th, or
13 on both days?

14 A. It would have been both
15 days.

16 Q. Okay. So I guess let's take
17 them one at a time then. We will try
18 to do the same questions for each.

19 So for the February 27th
20 exam, what did you do during that
21 examination of the Marcellin notebook?

22 A. That would have just been
23 general documentation of the Marcellin
24 notebook; how we first observed it,
25 its condition, its location, as well

1 A. LITZINGER

2 as its collection.

3 Q. So fair to say your
4 examination was physical, like a
5 visual examination; you picked it up,
6 you looked at it, then you vouchered
7 it for collection?

8 A. That's correct.

9 Q. Then what did you do during
10 the October 27th examination of the
11 Marcellin notebook?

12 A. The October 27th examination
13 would have been an examination not
14 just of the notebook, but all evidence
15 that was collected. As far as the
16 Marcellin notebook -- am I saying that
17 correct?

18 Q. Yes, absolutely.

19 A. I just want to make sure I
20 am using the same verbiage. That one
21 we inspected it, we looked for any
22 identifiers in terms of the laptop as
23 well as the battery pack and/or any
24 components. There were a few labels
25 that we documented; one was thermal

1 A. LITZINGER

2 paper, so that one was heavily fire
3 damaged so we weren't able to glean
4 any good information from it, but we
5 did not fully disassemble the
6 Marcellin notebook at that time.

7 Q. When you say you didn't
8 fully disassemble it, did you partly
9 disassemble it?

10 A. I believe we excavated some
11 of the battery cell remains that were
12 in there, but we didn't go past that.
13 We were attempting to identify any
14 potential stickers or markings on the
15 battery pack enclosure of what
16 remained.

17 Q. Okay. At the February 27th
18 and October 27th exams, was it just
19 you and Mr. Karasinski for both
20 exams?

21 A. No.

22 Q. Okay. So who else was
23 present at the October 27th exam?

24 A. I couldn't give you -- I
25 believe there is a -- I have to look

1 A. LITZINGER

2 at the sign-in sheet for that day to
3 be able to give you a firm answer on
4 who was there, but I believe there
5 were representatives from HP there as
6 well as I think a representative of
7 the home, the insurance company for
8 the home, but I don't recall names and
9 who else may have been there.

10 Q. Okay. On February 27th, who
11 else was at that examination?

12 A. It would have -- I believe
13 it would have been similar individuals
14 or noticed parties, but I don't -- no,
15 I believe HP did have representation
16 there as well. I would have to look
17 at the sign-in sheet as well. I
18 apologize.

19 Q. No apologies necessary. I
20 am quizzing you from memory five years
21 ago. I appreciate you doing the best
22 you can.

23 Now, you explained that you
24 excavated some cells from the
25 Marcellin battery. Did you perform

1 A. LITZINGER

2 any tests on February 27th with
3 respect to the Marcellin notebook?

4 A. Testing, no.

5 Q. I think you said you
6 reviewed an early CT scan. Was that
7 the only CT scan you reviewed in this
8 case?

9 A. That is correct.

10 Q. Did you review any X-rays in
11 this case?

12 A. Yes.

13 Q. When did you review those
14 X-rays?

15 A. Those X-rays were taken
16 during the October 27th exam.

17 Q. So they were taken during
18 the initial scene investigation?

19 A. No. The joint laboratory
20 examination.

21 Q. So February 27th then?

22 A. No. February 27th was --

23 Q. I apologize. I am reversing
24 them. I apologize. February 27th was
25 the scene exam. October was the lab

1 A. LITZINGER

2 exam, and that's when you took the
3 X-rays?

4 A. That is correct.

5 Q. Thank you for straightening
6 me out there.

7 Are you familiar with
8 Linden's Handbook of Batteries?

9 A. I am not.

10 Q. Have you ever performed
11 battery failure analysis?

12 A. In regards to? I guess I
13 would need to know what your
14 definition of that would be.

15 Q. I am wondering if you have
16 ever performed a failure analysis with
17 respect to a notebook computer battery
18 pack?

19 A. Not a notebook battery pack,
20 no.

21 Q. Did you do one for the RYOBI
22 battery pack?

23 A. I did an exemplar
24 documentation and tear down.

25 Q. For the RYOBI case?

1 A. LITZINGER

2 A. That's correct.

3 Q. What is a counterfeit
4 battery pack?

5 A. I don't have -- I don't know
6 if there is a true definition. Would
7 you like me to give you an answer as I
8 understand what one would be?

9 Q. Yes, please. Also, just
10 going forward, we are just looking to
11 test your knowledge, your
12 understanding just because this is my
13 one chance to talk to you. If we come
14 across another question like that,
15 please understand that I am looking
16 for your understanding. It doesn't
17 have to be a legal or scientific
18 definition. We are just having a
19 conversation.

20 With that said, what is a
21 counterfeit battery pack to you?

22 A. Understood. A counterfeit
23 battery pack would be a battery pack
24 that was not manufactured, I will say
25 by in this case HP, but it would be

1 A. LITZINGER

2 able to be utilized with an HP
3 product.

4 Q. Okay.

5 A. That's just being very
6 specific to this particular case.

7 Q. That's fine. That's
8 perfectly fine.

9 Is there any distinction in
10 your mind between a counterfeit
11 battery pack and a non-authorized
12 replacement battery pack?

13 A. I don't understand what you
14 are asking in regards to that
15 question.

16 Q. Maybe you have seen it in
17 Dr. Martin's report. He talks about
18 this, but I guess the distinction
19 would be between a battery pack that's
20 counterfeit versus one that's simply
21 unauthorized. Neither is manufactured
22 by HP, but there may be other
23 difference between them. Does that
24 make any sense to you?

25 A. Yes. To answer the question

1 A. LITZINGER
2 to the best of my ability, obviously
3 the inspection of the HP laptop and
4 the battery pack as a whole is -- was
5 outside of my scope, and would be
6 better talked about by Dr. Martin, but
7 to answer your question, a -- works
8 with, I believe that's the word you
9 used, works with?

10 Q. I believe you might have
11 used it. I think I used authorized.

12 A. Yes, I apologize, an
13 authorized versus non-authorized there
14 could be differences in the types of
15 cells as well as the construction of
16 the battery management system for that
17 particular battery pack.

18 Q. So as of the date of your
19 examination on October 27th, was it
20 your understanding that the cells in
21 the Marcellin notebook were not
22 original to her notebook?

23 A. We -- initially we weren't
24 sure about that. Then when we did the
25 joint laboratory examination we did

1 A. LITZINGER

2 have questions based on the evidence
3 that we observed.

4 Q. And what were those
5 questions?

6 A. The questions were more
7 specific to the evidence. We did note
8 that there were difference in the
9 battery cells. We had a combination
10 of what we call three vent hole cells
11 and five vent hole cells, which would
12 indicate that we had different cell
13 manufactures in the battery pack
14 itself.

15 Q. What is the significance of
16 that fact to you?

17 A. That either -- that was the
18 question we had at the time, you know,
19 that brings the questions of if the
20 battery pack was a true HP, or was
21 there something involved during the
22 manufacturing of these cells if this
23 was a true HP product. We just didn't
24 have enough information to go one way
25 or the other at that time.

1 A. LITZINGER

2 Q. Okay. So you had some
3 questions as of October 27, 2020, as
4 to whether the cells were original to
5 the HP product, but you didn't have an
6 answer one way or another, is that
7 fair to say?

8 A. That's correct.

9 Q. Okay. Did you later get an
10 answer one way or the other?

11 A. Yes.

12 Q. And when did you get that
13 answer?

14 A. I believe it was
15 Ms. Marcellin -- it might have been
16 before Ms. Marcellin's deposition. I
17 don't recall, but we did eventually
18 learn that it wasn't aftermarket
19 battery pack.

20 Q. Again, without getting into
21 the substance of anything,
22 conversations with Attorney Schwarz or
23 any of his team, was that conveyed to
24 you by counsel, Mr. Martin, someone
25 else, or was it a result of your

1 A. LITZINGER

2 investigation?

3 A. I guess I would say it was a
4 result of our investigation.

5 Q. So in October of 2020 you
6 had some questions about whether the
7 battery pack was original, and then at
8 some point between then and
9 Ms. Marcellin's testimony in 23 your
10 investigation, your further
11 investigation disclosed that it was
12 not original; is that right?

13 A. That would be correct.

14 Q. Was that further
15 investigation looking at the documents
16 that were generated during the initial
17 scene exam on February 27, 2020, and
18 the laboratory exam on October 27,
19 2020?

20 A. It would have been during
21 the initial joint scene examination,
22 my only time at the scene, we didn't
23 know that so that would have been
24 after the October 27th examination.

25 Q. So at some point after the

1 A. LITZINGER

2 October 27th examination you were
3 reviewing the documents that you --
4 your notes to that examination, and
5 you came to the conclusion that this
6 was not an original battery pack; is
7 that accurate?

8 A. I guess I would say that
9 Ms. Marcellin's deposition I guess is
10 what I would have -- I will say firmed
11 that up for us.

12 Q. What about her deposition
13 firmed it up for you?

14 A. I believe she -- if I recall
15 correctly, she agreed that it was an
16 aftermarket battery that she had
17 purchased.

18 Q. But you would agree that at
19 the time of the fire the HP was not in
20 the configuration that was sold to
21 Ms. Marcellin; right?

22 A. I don't understand your
23 question.

24 Q. So what I am trying to say
25 is if the Marcellin notebook had an

1 A. LITZINGER

2 aftermarket battery in it at the time
3 of the fire, then it was not in the
4 configuration that HP sold it to
5 Ms. Marcellin; right?

6 A. I understand. Yes, I agree
7 with what you are saying.

8 Q. Do you have any knowledge of
9 about what other alterations might
10 have been made to the computer, or the
11 operating system, or anything like
12 that?

13 A. Not that I am aware of, no.

14 Q. Okay. Did you do any tests
15 with respect to your work in the
16 October 14, 2024, report?

17 A. Outside of the CT scans, no.

18 Q. Do you know if the Pavilion
19 was UL listed?

20 A. I don't recall off the top
21 of my head.

22 Q. What is UL?

23 A. Underwriters laboratory.

24 Q. Do you know what UL
25 standards govern consumer electronic

1 A. LITZINGER

2 products like the Pavilion?

3 A. I do not off the top of my
4 head know the specific standards.

5 Q. Have you read them in the
6 past?

7 A. For the Pavilion, I don't
8 recall that I have reviewed that one
9 specifically, but I have worked with
10 UL standards in the past.

11 Q. Do you know if the battery
12 pack or cells that shipped with the
13 Pavilion were UL listed?

14 A. I don't know that
15 information. We were never able to
16 inspect the original battery pack.

17 Q. Okay. Do you know if the
18 materials that you got in this case
19 would have indicated one way or
20 another if that was the case?

21 A. I haven't seen anything that
22 indicated that.

23 Q. Do you know what UL
24 standards govern lithium-ion battery
25 packs?

1 A. LITZINGER

2 A. I don't know the specific
3 standard off the top of my head.

4 Q. Okay. Are you familiar with
5 the UL testing for battery packs, the
6 various tests that they perform?

7 A. I have reviewed a few of
8 them, but I have not done a
9 comprehensive review of that.

10 Q. Okay. Do you know generally
11 what tests they perform on battery
12 packs?

13 A. Generally, to name a few off
14 the top of my head they will do charge
15 and discharge, what I will call a
16 characterization test to look at
17 the -- how the batteries perform while
18 charging and discharging to make sure
19 they are not over or under discharging
20 per the tests. Other than that, I
21 know they do a lot more, but I am just
22 not familiar with that.

23 Q. Have you heard of the oven
24 test?

25 A. In regards to batteries I

1 A. LITZINGER

2 may have in the past, but I don't -- I
3 can't say specifically as it pertains
4 to lithium-ion battery.

5 Q. Have you ever heard of the
6 IEEE?

7 A. Yes, it is referred to as I
8 Triple E.

9 Q. Right. So what is the IEEE?
10 You don't have to give me the acronym.
11 Just describe the organization.

12 A. It is the study of
13 electrical engineers, electrical and
14 electronic engineers. They do
15 publications. I don't have a -- I
16 don't work with IEEE, so I don't have
17 a ton of familiarity with them. I
18 know of them, but I don't work with
19 them.

20 Q. Do you know what IEEE
21 standards would have applied to
22 rechargeable batteries for notebook
23 computers back in December 2010?

24 A. I do not.

25 Q. Do you know what an exemplar

1 A. LITZINGER

2 is?

3 A. Yes.

4 Q. What is an exemplar?

5 A. An exemplar would be a true
6 representation of a particular
7 product. In this case it would be
8 something that we could -- we would
9 say if we had a -- the Marcellin
10 notebook, if we were able to locate an
11 original notebook that was exactly the
12 same to include layout, hardware, as
13 well as the original cells, original
14 charger. That's what would be
15 considered an exemplar.

16 Q. Okay. So in this case it
17 would be another Pavilion DV6 similar
18 in condition to Ms. Marcellin's
19 notebook; right?

20 A. That is correct.

21 Q. Did you obtain any exemplars
22 in connection with your work in this
23 case?

24 A. No.

25 Q. Did you attempt to?

1 A. LITZINGER

2 A. I would say yes, in terms of
3 the other laptop computer that was
4 collected from the scene.

5 Q. So you would consider the
6 newer HP to be an exemplar in this
7 case?

8 A. No, that's not correct. We
9 collected it to evaluate what type of
10 battery system it had, and maybe it
11 was a similar one. We did not know
12 during the scene exam if that would be
13 the case.

14 So all parties agreed to
15 collect it, and preserve it because
16 once we left we wouldn't -- we may not
17 have the opportunity to get that back.
18 We collected it in an attempt to see
19 if there was anything that we can
20 glean from it.

21 Q. So you are saying you did
22 attempt to obtain an exemplar what you
23 took what you later discovered to be a
24 newer notebook, but based on its
25 condition at the time could well have

1 A. LITZINGER

2 been an exemplar for the Pavilion DV6;
3 is that a fair summary of your answer?

4 A. Correct, it had potential,
5 but at the time we didn't know that.

6 Q. Okay. So other than
7 vouchering the 2019 HP notebook from
8 the fire scene, did you make any other
9 efforts to obtain an exemplar in
10 connection with your work in this
11 case?

12 A. We did not.

13 Q. Okay. When you made an
14 examination of the cells that you
15 excavated from the Marcellin notebook,
16 what did you compare those cells to?

17 A. Typically 18650 -- what we
18 knew at the time of 18650 cells.

19 Q. You were saying primarily?

20 A. Primarily size
21 characteristics to confirm if it was
22 an 18650 as well as what remained in
23 those cells, and attempting to
24 identify a potential cell
25 manufacturer.

1 A. LITZINGER

2 Q. So when you examined the
3 cells you excavated you compared them
4 to typical 18650s that you had on hand
5 in the laboratory?

6 A. Not on hand. It would be
7 obviously 18650s, you know, in the
8 past we will say five to ten years
9 have become a very big part of fire
10 investigations. So with the knowledge
11 that we have that's continually
12 growing over the years we use that
13 information to primarily -- and at
14 that stage in the investigation would
15 have been to just confirm are these
16 18650s, and is there any identifying
17 information that we can get off of it
18 to confirm is it an HP product, we
19 will say, or is it consistent with
20 known HP products and/or is it not
21 consistent.

22 Q. Listening to your answer it
23 sounds like you guys have dealt with a
24 lot of 18650s, and so you are looking
25 at the cells that you excavated and

1 A. LITZINGER

2 you are comparing it to, in your minds
3 to what you know what an 18650s, the
4 characteristics are based on your
5 experience examining them many times
6 in the past; is that accurate?

7 A. That's correct.

8 Q. Okay. I am just trying to
9 figure out if you were literally
10 looking at excavated cells in one hand
11 and some other cell on the right, or
12 if you are just looking at the
13 excavated cell and saying, I have seen
14 a million 18650s, this has the
15 characteristics of an 18650s?

16 A. I guess you can say there
17 was one of -- I believe the
18 representative from HP did have what
19 we will call a comparison 18650 just
20 for size and shape. There are a few
21 photographs where we have one that's
22 just being compared for reference
23 sake.

24 Q. So that would have been
25 during the February exam, or would it

1 A. LITZINGER

2 have also been during the October,
3 too?

4 A. Not the February exam. That
5 would be not somewhere where we would
6 do that type of work, but the cell
7 review would be.

8 Q. Okay. So at the October
9 exam you did have a physical, at least
10 in comparison cell that HP brought
11 just so you could see size and shape
12 characteristics versus the excavated
13 cells?

14 A. Correct, but it was not --
15 it wasn't like a -- it was like out of
16 a flashlight that he currently had
17 with him. I believe it was the HP
18 representative. I don't recall that
19 part, but it wasn't a cell that HP
20 gave him that would have been
21 representative.

22 Q. Okay. So it was a typical
23 18650 cell, and you were really using
24 it just to make sure that the debris
25 and the things that you were looking

1 A. LITZINGER

2 at corresponded with the right size
3 and diameter characteristics of a
4 new-ish 18650 cell; fair to say?

5 A. Correct.

6 Q. Okay. Do you offer any
7 opinion in your report as to what
8 caused the failure of the Marcellin
9 notebook?

10 A. No, that was outside of the
11 scope of my investigation.

12 Q. Okay. So you don't identify
13 the causes of the failure of the
14 notebook; is that right?

15 A. That is correct.

16 Q. Okay. So you can't say for
17 certain if it was the battery pack or
18 something else?

19 A. When you say, something
20 else, what do you mean by something
21 else?

22 Q. Something else within the
23 notebook.

24 A. That's correct. That would
25 be under -- I would refer to

1 A. LITZINGER

2 Dr. Martin on that one.

3 Q. Okay. So you couldn't say
4 if it was a battery pack or some other
5 component of the notebook that failed
6 because that was beyond the scope of
7 your engagement?

8 A. That's correct.

9 Q. Okay. If you were trying to
10 figure out what caused the failure of
11 the notebook, what would you do?

12 A. I would defer to someone
13 such as Dr. Martin.

14 Q. So that would not be
15 something you would ordinarily do in
16 connection with your investigations in
17 a case like this?

18 A. Correct.

19 Q. Turning to page five of your
20 report.

21 A. Okay.

22 Q. If you hold that page there,
23 I actually have one or two other
24 questions before we go back to the
25 report.

1 A. LITZINGER

2 Do you know, and can you
3 state for the record the safety
4 features of the Pavilion?

5 MR. SCHWARZ: Of the
6 Pavilion, or of the
7 battery pack?

8 MR. LEVITES: The
9 Pavilion, which we are
10 discussing as the model.
11 Not the Marcellin
12 notebook.

13 MR. SCHWARZ: I just
14 wanted to specify, you are
15 talking about the entire
16 computer --

17 MR. LEVITES: The
18 Pavilion DV6, the whole
19 assembly, yes.

20 A. Safety features, I do not --
21 I will defer to Dr. Martin on that
22 one.

23 Q. In an investigation like
24 this, the -- you wouldn't ordinarily
25 look for the safety features of a

1 A. LITZINGER
2 product like this, right, that
3 wouldn't be part of your analysis?

4 MR. SCHWARZ: Object to
5 the form of the question.
6 He said he wouldn't do
7 this analysis. He would
8 defer to another expert to
9 do it, so I think it is an
10 unfair question to ask him
11 what he would do if he
12 says he wouldn't do that
13 type of analysis, but you
14 can answer.

15 MR. LEVITES: I am just
16 trying to understand
17 generally.

18 Q. I understand that here
19 Dr. Martin is the one who has reviewed
20 the safety features of the Pavilion,
21 and you are deferring to him to
22 address that.

23 My question to you is, in a
24 typical case, would someone like
25 Dr. Martin do that, or in another case

1 A. LITZINGER

2 might you do that?

3 A. If it were a computer it
4 would be Dr. Martin.

5 Q. Okay. So if you had another
6 notebook computer case you wouldn't
7 review the safety features of the
8 notebook. You would defer to someone
9 who is an expert in that area?

10 A. I would defer to him, yes,
11 because he has more experience in this
12 area than I do, correct.

13 Q. Did you review the notebook
14 schematics for the Pavilion DV6 in
15 this case?

16 A. I was not able to locate
17 one.

18 Q. Did you review any other
19 manufacturing documents?

20 A. No.

21 Q. I think we talked about this
22 briefly, but this is a slightly
23 different question. Did you do
24 anything to try and determine who
25 manufactured the battery pack that was

1 A. LITZINGER

2 in Ms. Marcellin's notebook? You said
3 you looked at some labels, and you
4 looked at some attributes. Did you do
5 anything else to try to figure out who
6 made that?

7 A. Outside of trying to do some
8 Internet research without a receipt or
9 where it was purchased from, it was
10 not -- we were not able to find
11 something to confirm it would be a
12 match.

13 Q. Do you know what the
14 critical components of lithium-ion
15 battery are?

16 A. Off the top of my head, I am
17 not familiar with that, no.

18 Q. Okay. How does a cell
19 typically -- what is the process of a
20 cell going into thermal runaway, if
21 you can describe that for me?

22 A. I would defer to Dr. Martin
23 on that one.

24 Q. Because he is the lithium
25 expert; fair to say?

1 A. LITZINGER

2 A. Yes, he has more experience
3 with lithium-ion batteries, that's
4 correct.

5 Q. Now, I think you kind of
6 answered this question before when you
7 said that failure analysis with
8 respect to the notebook computer, the
9 Marcellin notebook was beyond the
10 scope of your analysis in this case,
11 but I guess this is somewhat related.
12 How did you rule out abuse of the
13 notebook as a cause of the fire?

14 A. That would be something that
15 Dr. Martin would have to discuss
16 further.

17 Q. Okay. Is it fair to say the
18 failure analysis -- you are going to
19 defer to Dr. Martin with respect to
20 the failure analysis of the notebook,
21 and your domain is really the building
22 and electrical system?

23 A. That's correct.

24 Q. Do you ever talk to the fire
25 department in this case?

1 A. LITZINGER

2 MR. SCHWARZ: You are
3 talking about the fire
4 investigator?

5 MR. LEVITES: Or anyone
6 from the fire department.

7 MR. SCHWARZ: Okay.

8 A. I believe the local -- we
9 refer to the fire department or
10 anybody that's in the public sector as
11 the local investigator. In this case
12 the local investigator was at the
13 joint scene exam to provide us kind of
14 his -- the information that he had
15 that he can provide to us in regards
16 to fire suppression, and overhaul, and
17 his part of the investigation prior to
18 us being involved.

19 Q. Okay. And generally do you
20 remember what the local investigator
21 told you during that joint scene exam?

22 A. My recollection is that he
23 put the area of origin as the, I
24 believe it is referred to as the
25 sewing room as the area of origin. He

1 A. LITZINGER

2 did not say -- he was undetermined
3 from my understanding, but he could
4 not eliminate -- I think he was
5 just -- he could not eliminate the
6 subject laptop, Ms. Marcellin's
7 notebook.

8 Q. Thank you for that. I know
9 I am throwing around a lot of defined
10 terms for you so I appreciate it.

11 I am going to go back to
12 page two of your report. You wrote
13 that you were requested to write a
14 report regarding the electrical
15 system, and items collected as it
16 relates to the electrical failure
17 analysis as it pertains to the above
18 caption fire loss. Did I read that
19 right?

20 A. That is correct.

21 Q. What is electrical failure
22 analysis?

23 A. In this instance it would
24 have been the buildings's electrical
25 system as a whole. Up to the --

1 A. LITZINGER

2 essentially up to the laptop, the
3 subject -- I apologize, we call the
4 subject notebook. It is the Marcellin
5 notebook.

6 Q. That's okay. I think
7 subject laptop is fine as well.
8 Incident laptop, incident notebook. I
9 am going to call it the Marcellin
10 notebook, but I understand your
11 meaning.

12 So I think you answered my
13 next question, which is, what do you
14 mean when you refer to the electrical
15 system? You are talking about the
16 building electrical system up to the
17 subject notebook; right?

18 A. That is correct.

19 Q. Okay. We briefly went over
20 this on the next page, page three,
21 second to last bullet references your
22 review of the report by Dr. Martin.
23 Just generally speaking, what is your
24 understanding of Dr. Martin's
25 conclusions?

1 A. LITZINGER

2 A. That the -- my
3 understanding -- I will do my best not
4 to speak out of turn is that there was
5 fail safes in the -- that would have
6 prevented the -- at the time there
7 were fail safes being used in industry
8 that should have prevented the use of
9 an aftermarket battery pack or could
10 have been used.

11 Q. Okay. You say here that you
12 reviewed NFPA 921. Well, we know you
13 were writing the '24 edition; right?

14 A. That is correct.

15 Q. You reference here
16 Mr. Karasinski's origin and cause
17 report. Same thing with Dr. Martin,
18 could you just give me your general
19 understanding of what Mr. Karasinski's
20 conclusions were in that report?

21 A. Again, paraphrasing,
22 Mr. Karasinski puts the room of origin
23 as what is referred to as the sewing
24 room. The area of origin is at the HP
25 Pavilion, the subject notebook. I

1 A. LITZINGER

2 can't eliminate failure of that -- of
3 the subject notebook to include its
4 battery pack.

5 Q. So based on everything you
6 are telling me you restricted yourself
7 to the electrical aspects of this
8 case?

9 A. That is correct.

10 Q. And to be clear, the
11 electrical aspects don't include the
12 failure of the notebook, even though
13 electricity may have been involved
14 with that; is that fair to say?

15 A. That is correct.

16 Q. So you reference NFPA 921.
17 I am going to read you one of the
18 sections from 921 with which you may
19 already be familiar, it is Section
20 19.6.5.2. It states, "the
21 investigator should remember that the
22 fire cause is defined as the
23 circumstances, conditions, or agencies
24 that bring together a fuel ignition
25 source, and oxidizers (such as air or

1 A. LITZINGER
2 oxygen) resulting in a fire or
3 combustion explosion. The
4 identification of an ignition source
5 and a first fuel is not sufficient to
6 determine a cause. Determining a fire
7 cause and ignition sequence requires
8 that any proposed hypothesis include
9 consideration of the relationship
10 between the competency of the ignition
11 source and the first fuel ignited.
12 The investigator should determine if
13 the proposed ignition source is a
14 competent ignition source for the
15 proposed first fuel ignited."

16 I realize that was a longer
17 statement, but having heard this
18 statement from 19652, would you agree
19 with that?

20 A. Can you share that on the
21 screen for me, please?

22 Q. Absolutely. I am going to
23 put this up in a blank document
24 because I have pasted this into my
25 notes, so if that's all right with you

1 A. LITZINGER

2 I will do that. If you have the NFPA
3 you can probably turn to the section
4 if that's easier for you.

5 A. I do not have that with me
6 at the moment.

7 Q. Can you see that?

8 A. Yes.

9 MR. SCHWARZ: This is
10 your summary of that, or
11 did someone type it?

12 MR. LEVITES: I copied
13 and pasted it beginning
14 with this quotation as a
15 direct quote.

16 MR. SCHWARZ: That's
17 from the causation
18 chapter, Chapter 19;
19 correct?

20 MR. LEVITES: Correct.
21 This is the Subsection
22 19.6.5.2.

23 MR. SCHWARZ: Right.
24 And he has testified that
25 was Mr. Karasinski's area

1 A. LITZINGER
2 of expertise in his
3 report; correct?

4 MR. LEVITES: Was that
5 his testimony?

6 MR. SCHWARZ: Yes, I
7 believe so. The cause and
8 origin investigation
9 report was
10 Mr. Karasinski's, and
11 Mr. Litzinger handled the
12 electrical system, which
13 is a different chapter, I
14 believe Chapter 6. Is
15 that correct,
16 Mr. Litzinger?

17 THE WITNESS: That
18 would be correct.

19 MR. SCHWARZ: I am just
20 going to preserve my -- I
21 don't have a chance to
22 review word for word this
23 that you are saying is --
24 I don't doubt that you did
25 that, but I just want to

1 A. LITZINGER
2 put an objection without
3 looking at the actual --

4 MR. LEVITES:
5 Understood.

6 MR. SCHWARZ: -- 921
7 document, and we are going
8 to take this as your cut
9 and paste from that
10 document, and you are
11 asking a question that is
12 in Mr. Karasinski's
13 expertise and report in
14 this case and not
15 Mr. Litzinger's, but with
16 that objection, go ahead.

17 Q. Okay. So Mr. Litzinger, I
18 have up here NFPA 921 Section
19 19.6.5.2; do you see that?

20 A. Yes.

21 Q. Have you had an opportunity
22 to review it?

23 A. I was -- give me one second.
24 "According to NFPA 921 Section
25 19.6.5.2, the investigator should

1 A. LITZINGER
2 remember that the fire cause is
3 defined as the circumstances,
4 conditions, or agencies that bring
5 together a fuel, ignition source, and
6 oxidizer (such as air or oxygen)
7 resulting in a fire or a combustion
8 explosion (see 3.3.74). The
9 identification of an ignition source
10 and a first fuel is not sufficient to
11 determine a cause. Determining a fire
12 cause and ignition sequence requires
13 that any proposed hypothesis include
14 consideration of the relationship
15 between the competency of the ignition
16 source and the first fuel ignited.
17 The investigator should determine if
18 the proposed ignition source is a
19 competent ignition source for the
20 proposed first fuel ignited (see
21 19.4.2)." Okay.

22 Q. So my question is, do you
23 agree with the statements that I put
24 up on the screen there?

25 A. Yes.

1 A. LITZINGER

2 Q. What do you consider to be
3 the first fuel for this fire?

4 A. That would be
5 Mr. Karasinski's purview.

6 Q. So you didn't address the
7 issue of the first fuel in your
8 report; fair to say?

9 A. Correct.

10 Q. I am going to turn to page
11 17.

12 MR. SCHWARZ: Of this
13 report again?

14 MR. LEVITES: Correct.

15 MR. SCHWARZ: Thank
16 you.

17 Q. Are you there,
18 Mr. Litzinger?

19 A. I am, yes.

20 Q. You state in your conclusion
21 in the -- I am trying to figure out
22 where I took this from. I apologize.
23 It is the first full paragraph there.
24 It is in the middle of the paragraph,
25 the line that begins with the word,

1 A. LITZINGER

2 consultant; do you see that?

3 A. "It is the forensic-based
4 opinion of this forensic electrical
5 consultant"?

6 Q. Correct.

7 A. Okay.

8 Q. So you go on to opine there
9 that the only item that cannot be
10 eliminated at this time is a failure
11 within the HP Pavilion laptop;
12 therefore, the fire was caused by a
13 failure of the HP Pavilion laptop to
14 include the battery system.

15 We will go through the other
16 aspects of your report, but I was
17 hoping you can give me a general
18 discussion of how you determined that
19 the laptop was the cause of the fire?

20 A. From an electrical
21 standpoint that was based off of my
22 evaluation of the building's
23 electrical system as well as the --
24 the building's electrical system as
25 well as the evidence that was

1 A. LITZINGER

2 inspected post joint collection. The
3 only available -- electrically the
4 only other device would have been the
5 subject notebook.

6 Q. I think we talked about the
7 first fuel issue, but having no
8 opinion on what the first fuel is, is
9 it fair to say you have no opinion on
10 how the laptop caused the ignition of
11 the first fuel?

12 A. That's correct.

13 Q. So you said that you
14 determined the laptop was the cause of
15 fire by looking at the building
16 electrical system from an electrical
17 standpoint, the evidence that was
18 inspected after the joint collection,
19 is there any other evidence that you
20 looked at to arrive at that
21 conclusion?

22 A. Yeah, that is correct.

23 Q. The cause of the fire you
24 did determine was the failure of
25 Ms. Marcellin's notebook; right?

1 A. LITZINGER

2 A. That's the only thing I
3 cannot eliminate electrically,
4 correct.

5 Q. But you couldn't determine
6 which of several possible causes could
7 have caused her computer to fail? I
8 apologize for using the word cause,
9 like, three times but hopefully you
10 understood my question.

11 A. Not a problem. That would
12 have been outside of my scope. I
13 would refer to Dr. Martin in that
14 regard.

15 Q. Okay. I would like to go to
16 page six of your report.

17 A. Okay.

18 Q. Now, you have a discussion
19 here of circuit breaker number four;
20 do you see that?

21 A. Yes.

22 Q. So it says, "the main
23 circuit breaker as well as circuit
24 breaker number four were documented in
25 the off position." My question is, do

1 A. LITZINGER

2 you know why the main circuit breaker
3 was in the off position?

4 A. Typically the main circuit
5 breaker, the local fire department --
6 it varies from fire department to fire
7 department. Some fire departments are
8 trained to only turn off the main.
9 Other fire departments will go in and
10 will turn off every circuit breaker in
11 the panel.

12 Based on our observations it
13 would be that the fire department
14 turned it off. As this part of the
15 building was not directly impacted by
16 fire, there would have been no reason
17 for that circuit breaker to have
18 activated.

19 Q. Okay. That's why the main
20 circuit breaker was off. Do you know
21 why circuit breaker four was in the
22 off position?

23 A. Circuit breaker number four,
24 we do not know. It was not -- we were
25 not able to determine what that

1 A. LITZINGER

2 circuit breaker was for.

3 This was an older style
4 panel. Typically circuit breakers --
5 not typically, different manufacturers
6 of circuit breakers trip different
7 positions. Some trip to center, some
8 trip to off. Some have indicator
9 windows. In this particular
10 circumstance, I do not know if these
11 style breakers do trip to off or not.
12 The only condition --

13 Q. I may be able to --

14 MR. SCHWARZ: I'm
15 sorry, I didn't catch the
16 end of his testimony, and
17 I don't think the court
18 reporter did either, the
19 last sentence, because I
20 think you over spoke him.

21 Q. I apologize, Mr. Litzinger.
22 Can you repeat the last sentence for
23 Ms. Linzer?

24 A. Absolutely. I do not know
25 if this -- these breakers trip to off

1 A. LITZINGER

2 or to trip to center. I don't have
3 that information.

4 Q. Mr. Litzinger, I may be able
5 to assist with some technology here.
6 I am just pulling up your report. Can
7 you see that?

8 A. Yes, I can.

9 Q. I am going to try and blow
10 up this picture here. Do you see
11 this? I have blown up the panel here;
12 do you see that?

13 A. Mm-hmm, that's correct.

14 Q. Do you see the text on the
15 left side of the panel?

16 A. Yes, I do.

17 Q. Is it says, "when breaker
18 trips, handle moves to off position."

19 A. Yes.

20 Q. Okay. So with that
21 information, does that give you any
22 additional information with respect to
23 why circuit breaker number four would
24 have been in the off position?

25 A. Without examining the

1 A. LITZINGER

2 circuit breaker itself I would not be
3 able to give you that answer. We
4 would have to do X-rays in order to
5 look at the positions of the internal
6 context to give a definitive answer.

7 Because the circuit breaker
8 trips to the off position, whether it
9 was bumped off by a firefighter or was
10 off due to an electrical event, there
11 would be further analysis of that
12 circuit breaker that would be needed.

13 Q. Do you do any further
14 analysis of that circuit breaker?

15 A. Not on that circuit breaker,
16 no.

17 Q. In this picture it is the
18 only individual breaker handle that's
19 moved to the off position; right?

20 A. That's correct.

21 Q. You mentioned that it could
22 have been bumped off by a local
23 investigator, and it could have been
24 tripped by an electrical event. Is
25 there any other way that it could have

1 A. LITZINGER

2 been in the off position?

3 A. Circuit breakers can
4 effectively trip due to heat, thermal
5 impacts as well. In this particular
6 case, the evidence did not support
7 that that was the case.

8 Q. Okay. So it probably would
9 have been in either the local
10 firefighters, or local investigators
11 rather, or an electrical event?

12 A. That is correct.

13 Q. Okay. I am going to direct
14 your attention to the figure five,
15 which is directly below the one we
16 have been talking about.

17 A. Yes.

18 Q. You will see there that you
19 state, "figure five depicts the
20 receptacle on the C wall of the room
21 of origin that the laptop was reported
22 to be plugged into at the time of the
23 incident." Did I read that right?

24 A. Yes, that's correct.

25 Q. Okay. So when you observed

1 A. LITZINGER

2 it, it was unplugged?

3 A. That's correct.

4 Q. Do you know who unplugged
5 it?

6 A. I do not know who unplugged
7 it.

8 Q. So do you know if it was
9 plugged in at the time of the fire?

10 A. It was reported to have been
11 plugged in at the time of the fire,
12 that's correct.

13 Q. Who reported that it was
14 plugged in at the time of the fire?

15 A. I would have to review my
16 notes for that information.

17 MR. SCHWARZ: We have
18 been going another hour.
19 If you want to take a
20 break?

21 MR. LEVITES: Yes, this
22 is a good time to take a
23 break. Maybe we come back
24 at 12:20, unless you want
25 to do a longer one now for

1 A. LITZINGER

2 lunch or whatever?

3 THE WITNESS: That
4 would be good for me if
5 that works for you guys.

6 MR. SCHWARZ: What time
7 do you need to eat, Andy?

8 THE WITNESS: Can we do
9 20 minutes instead of 10?

10 MR. LEVITES: Sure.
11 Why don't we do 25, and we
12 will come back on at
13 12:40.

14 MR. SCHWARZ: Sounds
15 good.

16 THE WITNESS: Thank you
17 very much.

18 (Whereupon, a short
19 break was taken at this
20 time.)

21 Q. I think we were at page
22 seven of your report, Mr. Litzinger,
23 before we broke. You have that in
24 front of you?

25 A. Yes.

1 A. LITZINGER

2 Q. Okay. So you state here, it
3 is the third full sentence below
4 figure six, it says, "the laptop was
5 connected to the wall receptacle
6 through a charger"; do you see that?

7 A. That's correct.

8 Q. But you did state earlier it
9 was not connected to the wall
10 receptacle during your survey of the
11 room; right?

12 A. That's correct.

13 Q. Okay. You say, moving to
14 the next page, which is page eight --

15 A. Okay.

16 Q. You say here concerning your
17 joint laboratory analysis that the
18 batteries, you noted the three vent
19 holes to the five vent holes.

20 We talked about that before,
21 but you note it here in your report as
22 well. I'm asking what is the
23 significance of this -- in this
24 section of your report, the different
25 end caps?

1 A. LITZINGER

2 A. That would indicate that
3 there are different cells being used
4 in the battery pack.

5 Q. Okay. So looking -- if they
6 were authentic you would expect them
7 to all have the same end caps; is that
8 right?

9 A. That is correct.

10 Q. Looking at figure F here,
11 these were the end cap cells that were
12 recovered from the scene; right?

13 A. That is correct.

14 Q. These ones did not go in the
15 thermal runaway?

16 A. I don't have that answer. I
17 would refer to Dr. Martin's review of
18 those battery cells.

19 Q. So you didn't do anything in
20 particular to review the cells in F?

21 A. Not in regards to an
22 internal failure or thermal runaway
23 event.

24 Q. Okay. Did you do anything
25 else to test the cells in F?

1 A. LITZINGER

2 A. I did not, no.

3 Q. Did you collect any other
4 battery cells?

5 A. What we refer to as the can,
6 we did find a couple of cans in the
7 room as well.

8 Q. Did you -- you inspected
9 those cells that you collected
10 relative to the cans?

11 A. Yes, I documented those.

12 Q. Is it your opinion that the
13 cells in F caused the fire?

14 A. That was outside of the
15 scope of my investigation. I don't
16 have an opinion on that.

17 Q. Do you have an opinion as to
18 whether the cells that were recovered
19 from site F was where the fire
20 started?

21 A. I'm sorry, can you repeat
22 that?

23 Q. Do you have any opinion as
24 to whether the cells recovered from
25 site F was the location -- or if site

1 A. LITZINGER

2 F was the site at which the fire
3 started?

4 A. I have to refer to my
5 diagram to see where F is located. I
6 believe these were -- item number one
7 is a collection of, I would call it
8 cell debris from within the room.
9 That's where those -- that got that
10 nomenclature.

11 Q. Okay.

12 A. We got that early on to
13 prevent any damage, to limit damage,
14 so these were the first items
15 collected and documented. Let me look
16 at my diagram real quick to see where
17 F is.

18 Q. I can put it up for you and
19 blow it up for you here. It is page
20 five of the report for the record.
21 This is Exhibit 1 again. I am going
22 to blow up figure three on page five,
23 which is the diagram and evidence
24 locations that we have been talking
25 about.

1 A. LITZINGER

2 So can you see that a little
3 better on the screen here?

4 A. Yes, I can.

5 Q. Okay. So my question for
6 you is, you can see F now on this
7 picture on the right?

8 A. Yes, I can.

9 Q. And you can see F on the
10 diagram that's to the left?

11 A. Yes.

12 Q. Okay. So we just looked at
13 on the page below, we just looked at
14 the cells that were recovered from F
15 on this diagram; right?

16 A. Yes.

17 Q. So having looked at the
18 cells and this photograph, my question
19 is, is it your opinion that the fire
20 started in F where those cells were
21 recovered?

22 A. As far as fire origin I
23 would defer to Jason Karasinski.

24 Q. Okay. So you don't know if
25 the cells that landed at F, if the

1 A. LITZINGER

2 fire started there?

3 A. Again, I don't have an
4 opinion on that.

5 Q. Okay. If you can go back
6 to -- I am going to leave this up
7 because I am going to ask another
8 question about the diagram. If you
9 can go back to page seven of your
10 report.

11 A. Okay.

12 Q. You will see there is an
13 item that's H. It is not really
14 clear. I can tell what the other
15 debris items are, but I can't really
16 make heads or tails of what item H is.
17 Can you tell from this picture?

18 A. So I am looking back at page
19 eight, figure seven.

20 Q. Thank you. I apologize.

21 A. That's fine. H is -- based
22 on the photograph appears to be
23 internal battery components that were
24 fused to carpet.

25 Q. Do you have any opinion as

1 A. LITZINGER

2 to whether this, the fire would have
3 started in H on this diagram?

4 A. I don't have an opinion on
5 that. I would defer to Jason
6 Karasinski.

7 Q. Does it look like the fire
8 started in H just as a laymen? I am
9 looking at F and H, and they look less
10 charred than the sites around them.

11 A. Once again, I cannot offer
12 an opinion on that. I would defer to
13 Jason Karasinski.

14 Q. Setting aside technical
15 opinion as to where the fire started,
16 would you agree with me that the area
17 around F and H in figure three in your
18 report appear to be burned in some
19 other areas of this carpet?

20 A. I think that the purpose of
21 this diagram was not to show burn
22 patterns. Just to show locations
23 where things were collected. There
24 are varying degrees of burning of the
25 carpet within the room, but I can't

1 A. LITZINGER

2 offer a good opinion as far as origin
3 is concerned and burn patterns.

4 Q. Okay. And then if we look
5 at page eight of your report you
6 stated that -- excuse me. Figure
7 eight on page nine, so moving to the
8 next page now.

9 A. Okay.

10 Q. So figure eight page nine
11 you stated that the debris you
12 collected from the hallway had been
13 moved from the closet during fire
14 suppression and overhaul. What did
15 you mean by that?

16 A. So it was reported to us by
17 the local investigator that the
18 fire -- the responding fire department
19 removed debris from the closet area
20 into the hallway during their, what I
21 would call their suppression efforts.

22 So fire suppression is
23 obviously the act of putting out the
24 fire, and then overhaul is a term we
25 use to describe -- the fire department

1 A. LITZINGER
2 will look for extension, or any type
3 of -- they want to make sure that the
4 fire is out. If there is a fire in
5 the closet they are going to pull
6 everything out of the closet, and
7 essentially soak it down to make sure
8 we don't have either -- that the fire
9 is out or they don't have what is
10 called a recon built, which means a
11 fire is started -- we will call it a
12 secondary fire, they just didn't maybe
13 get it all at their initial attack.

14 Q. Okay. So based on the
15 reports of the local investigators --
16 it is based on the report of the local
17 investigators that you concluded that
18 this was what was in the closet at the
19 time of the fire; fair to say?

20 A. Correct.

21 Q. Okay. So the first item
22 from the hall closet was the heated
23 blanket and LED lamp remains; do you
24 see that?

25 A. Yes. You are referring to

1 A. LITZINGER

2 figure nine; correct?

3 Q. Correct. And the -- excuse
4 me, I believe it is figure eight, the
5 LED lamp.

6 A. Yes, so there were -- so the
7 hall debris was collected in two
8 portions. Essentially what we did is
9 we split the -- I will call it a pile
10 because it was kind of strewn about, I
11 will say about a four- to six-foot
12 area. We split that in half, and what
13 we did is actually cut the carpet and
14 roll the debris in the carpet, and
15 then secured that so nothing was lost.

16 Q. Okay. So what we are
17 looking at in figure eight, is that
18 believed to be the remains of the LED
19 lamp, or is it the heated blanket, or
20 both?

21 A. Figure eight would be LED
22 lamp. So one part of the hallway
23 debris roll up was item number two,
24 and then item number three was
25 collected as a separate piece of

1 A. LITZINGER

2 evidence, which also was the other
3 part of that hallway debris.

4 So in item two we -- the
5 electrical items that were collected
6 out of that were these two lamp
7 remains.

8 Then item three, which is in
9 figure nine, had another lamp as well
10 as a heated blanket.

11 Q. Okay. So looking first at
12 the LED lamp in figure number eight,
13 would you say the lamp has thermal
14 damage?

15 A. Yes, it does appear that
16 there is thermal damage to it.

17 Q. Okay. But you forensically
18 eliminated it; right?

19 A. That's correct.

20 Q. How were you able to do
21 that?

22 A. First there was no light in
23 the closet, so nowhere for that to be
24 plugged into. If there is nothing for
25 it to be plugged into that means there

1 A. LITZINGER

2 is no electrical energy for it to
3 fail.

4 This particular lamp did not
5 have any kind of battery in it, so
6 without a power source it wouldn't
7 have had any energy to have a failure.

8 Also, that was stored in
9 the -- so that right there gives us
10 that information how we can eliminate
11 it, but there were no other signs of
12 failure of those lamps either.

13 Q. So what are the signs of
14 failure that you would look for?

15 A. In this particular lamp, one
16 of the things we would look for is you
17 can see in there there is some -- the
18 brown, they look like brown packets,
19 those are capacitors. So we would
20 look for signs that the capacitors had
21 any kind of failure, and that is a
22 variety of things. We would be
23 looking for if it looks swelled,
24 cracking, if one of them shows signs
25 of higher damage than the others.

1 A. LITZINGER

2 I believe looking at that
3 photo there are two to three, I have
4 in other photos I have to look at, but
5 that's from a component standpoint,
6 but then also what you would be
7 looking at is there are two other ways
8 to look for failures. One of those is
9 on the side in an intact lamp remains
10 you wouldn't notice this, but there is
11 a small, I will call it a weak spot.
12 That is a vent -- it is actually
13 designed as a vent.

14 So lamps have thermal
15 protection in them, and different LEDs
16 have -- some lamps are not designed to
17 be inverted or base up, so that can
18 cause -- you can see issues manifest
19 there in their thermal protection.
20 That could have a failure which could
21 cause a thermal event.

22 If that vent opens due to a
23 thermal event, so basically if you
24 have a failure it will shoot hot
25 gasses and things like that out,

1 A. LITZINGER

2 depending what the components are
3 inside, and those can indicate that
4 that lamp went into thermal runaway of
5 some kind.

6 Another area that I would be
7 looking at would be what is called the
8 COB or chip on board. It is typical
9 with these types of lamps to have your
10 LED, the driver, and the biasing
11 resistor. There has to be, I believe
12 it is a four -- I might be off on the
13 number, but there is a certain
14 resistance value that you are supposed
15 to have in conjunction with your LED
16 for appropriate what is called
17 biasing, basically so the light turns
18 on.

19 So we would look at those to
20 see if there is any localized heating
21 and/or damaged surrounding that chip
22 on board. In this one I don't recall
23 how many chips on boards, but
24 typically there is more than one on a
25 lamp such as this.

1 A. LITZINGER

2 Q. So you didn't see any damage
3 to the chip on board?

4 A. Correct.

5 Q. And then, I guess, the chip
6 on board, is it fair to say that this
7 is the -- that this is the green chip
8 that's in the foreground of the photo
9 on the right of the two lamps just
10 below, I guess -- I will put it up on
11 my screen so you can see what I am
12 talking about.

13 What I am circling here on
14 my mouse, is that the chip on board,
15 this green thing here?

16 A. Can you zoom in more? I
17 don't believe -- that does not appear
18 from right here.

19 Q. This photo might not show
20 it. It might be on the reverse?

21 A. No, that appears -- that may
22 be --

23 Q. This little thing right here
24 (indicating)?

25 A. That could be another

1 A. LITZINGER

2 smaller capacitor used for filtering.

3 I am not sure. I would have to look

4 at that a little closer, but the

5 chip -- that would be what is in the

6 base of the lamp so the other side

7 would produce the light.

8 Q. So the other side would have

9 the chip?

10 A. Yes. And you can see it a

11 little better in figure nine on that

12 other lamp that was collected.

13 Q. That's this one? This is

14 the chip on board?

15 A. So the chip on board --

16 there are various shapes and sizes. I

17 apologize, it looks like when this was

18 made into a PDF it degraded the photo

19 a little bit, but chip on board would

20 be typically square in nature with a

21 circle on it. Often times that circle

22 would be yellow in appearance, which

23 is the phosphor coding of the light

24 which gives it its color temperature.

25 That's what you would be looking for.

1 A. LITZINGER

2 So that would be -- this one
3 does have thermal damage to it, but it
4 doesn't exhibit any signs either of a
5 potential failure.

6 Q. That's helpful. So what
7 would you see if there were signs of
8 thermal -- in this photo that we are
9 looking at of the blow up of figure
10 nine here, what should we be looking
11 for if this was -- if there were signs
12 of failure?

13 A. So you would be looking for
14 very localized failure. If we are
15 talking about a chip on board failure
16 we would be looking for a lot more
17 localized damage that you wouldn't see
18 on other chip on boards.

19 Like I said, typically there
20 are multiple COBs in -- on these lamps
21 because one light is -- if you have
22 one chip on board it is typically for
23 a flashlight or something like that.
24 You don't want that in your house
25 because that would shine a giant

1 A. LITZINGER

2 spotlight on the floor, and that
3 doesn't help anybody.

4 These will typically have
5 multiple COBs that will have a wider
6 angle of light transmission, so you
7 would be looking for those to see if
8 one of them has more localized damage
9 to help indicate a failure of a COB.

10 Now, conversely there are
11 obviously electronics on the other
12 side, as we previously talked about in
13 figure eight, we would be looking for
14 other evidence such as that vent hole
15 to indicate that we have a thermal
16 runaway event, or we would be looking
17 for a failed component on the other
18 side.

19 Q. So I'm looking at this more
20 closely. So this that we are looking
21 at on the left side of figure nine, is
22 this a single chip on board, and then
23 you can see the yellow patina of the
24 phosphor?

25 A. No, you are looking at the

1 A. LITZINGER

2 entire circuit board, so they are
3 actually small --

4 Q. Is it like this little dot
5 right here (indicating)?

6 A. That could be one example
7 that I unfortunately -- the photo is
8 not high enough resolution, I
9 apologize.

10 Q. So there are multiple chips
11 on board on what we are looking at in
12 figure nine?

13 A. Correct.

14 Q. And if this had failed,
15 would you expect the whole thing to be
16 blackened? I am just trying to
17 visualize if we were to look at a
18 failed version right here, what would
19 it look like?

20 A. It is a lot more -- we would
21 be looking -- sometimes they look a
22 little different than others. Like I
23 said, it is a very each case dependent
24 because you can see signs of arc
25 tracking on the circuit board, but you

1 A. LITZINGER

2 will see a localized area of damage.

3 Where here in this case we see the

4 area of damage is consistent across

5 the entire circuit board.

6 Furthermore, there is actually the

7 dome, the plastic dome, that is

8 also -- you are seeing melted remains

9 of that as well.

10 Q. That's the blackened rim
11 around here that I am circling with my
12 mouse?

13 A. I believe that's correct.
14 You are seeing the charred plastic.
15 You are in some of what I am trying to
16 explain to you.

17 Q. That's helpful.
18 Now, is this next image, is
19 this what is believed to be the heated
20 blanket?

21 A. Yes.

22 Q. I think your answer is
23 probably going to be similar in
24 respect to the lamp, but this has
25 thermal damage, too; right?

1 A. LITZINGER

2 A. Correct.

3 Q. But you were also able to
4 forensically eliminate this as a
5 potential cause?

6 A. That's correct.

7 Q. Am I to take it that you
8 eliminated this on a similar basis as
9 to the lamps in that there was no
10 obvious sign of -- there was no
11 obvious place for it to be plugged in?

12 A. Well, in addition to there
13 is no place for it to be plugged in,
14 when we inspect -- so one, it is
15 folded up so it is in a stored
16 condition.

17 Secondly, in the bottom
18 right of that photo you can see the
19 plug end of it, so that's where it
20 would plug into an extension cord, or
21 even the wall receptacle. So that did
22 not show what we would call protected
23 area.

24 A lot of times what happens
25 is when something is plugged in you

1 A. LITZINGER
2 will see a protected area, not only on
3 the receptacle or the -- whatever it
4 is plugged into you will see a
5 protected end. This also -- this plug
6 end does not show protected area as
7 well. It shows heat and smoke damage.

8 Q. Okay. That makes sense.

9 I am going to turn to page
10 ten, which is the next page. I am
11 looking at figure ten. You stated the
12 item in figure ten couldn't be
13 identified. My question is, how were
14 you able to rule it out then if you
15 didn't know what it was?

16 A. So based on our -- my
17 inspection of the device, it was not
18 battery operated. It was a
19 plug-operated device. Having nowhere
20 for that to get plugged into, there
21 were no receptacles in the room that
22 showed other than the C wall, which
23 didn't have a lot of smoke deposition,
24 but the receptacle closest to the
25 closet did not show any protected

1 A. LITZINGER

2 areas indicating anything was plugged
3 in. So having nothing plugged in
4 there, or having nowhere -- no way to
5 plug it inside the closet we can make
6 that determination.

7 Q. Okay. Yeah, that's helpful
8 because your report mentions that
9 there were no receptacles in the
10 closet that could have provided power,
11 but my next question is, what about
12 battery? You stated that this was
13 not -- you ruled out that it was a
14 battery-powered device. It was a
15 corded device; right?

16 A. Correct.

17 Q. But that's not in your
18 report?

19 A. It is not in that -- you are
20 right. That's correct.

21 Q. So maybe you can -- I mean,
22 is it even possible to tell -- I can
23 see some kind of frayed cabling it
24 looks like. Is that what you looked
25 at and determined it was corded? It

1 A. LITZINGER

2 is kind of frayed wires sticking out
3 of the foreground, they are green,
4 twisted wires.

5 A. Unfortunately you are
6 looking at one photo of many photos.
7 I wasn't just using this photo to help
8 make that determination. It was all
9 of my documentation.

10 Q. Okay. But I guess does this
11 photo depict what you think is the
12 plug end, I guess?

13 A. I can't tell from this
14 photo, no.

15 Q. Now, figure 11 depicts two
16 smoke detectors that you recovered
17 from the scene; right?

18 A. That is correct.

19 Q. What about the smoke
20 detectors in figure 11 makes you think
21 that they were both activated?

22 A. Based on Ms. Marcellin's
23 interview and testimony as well as the
24 soot conglomeration on the smoke
25 detectors.

1 A. LITZINGER

2 Q. If you can tell me more
3 about the soot conglomeration on the
4 smoke detectors, if you can explain to
5 me what to look for in these pictures?

6 A. Once again it is not just
7 the -- these are just the
8 representative --

9 Q. I understand you have other
10 photographs, but you examined in
11 person, too?

12 A. Correct. What you would be
13 looking for to see if it activated, it
14 will almost look like sort of
15 concentric rings. And what that is is
16 as the alarm is going off, or the
17 sound device is operating it will
18 actually in certain areas will -- you
19 won't get soot deposition as a result
20 of a smoke condition or something of
21 that nature. You will actually see
22 those rings, which will help you
23 determine whether or not they
24 activated or not.

25 Q. Okay. So I kind of see the

1 A. LITZINGER

2 rings on the one on the right, but I
3 don't really see the rings on the one
4 on the left. Is that because of the
5 nature of the photograph? Would I see
6 it on the flip side of this one on the
7 left?

8 A. I think it is the nature of
9 the photograph.

10 Q. Okay. I see there is
11 Duracell battery next to each of these
12 two smoke detectors. Were they both
13 battery powered? Both hard wired with
14 a battery back up? Some combination
15 of the two?

16 A. I believe they were battery
17 operated.

18 Q. Okay. If you know, what did
19 the building codes require back in
20 2020 for smoke detectors like this?

21 A. So it wouldn't be based on
22 the 2020 building code. It would have
23 gone back to when it was manufactured.
24 I don't recall when it was built, and
25 what the code requirements would have

1 A. LITZINGER

2 been at that time.

3 Q. I am going on to the next
4 page, figure 14, page 11. We have
5 photographs of the charger.

6 A. Yes.

7 Q. You stated that the charger
8 was forensically eliminated. So my
9 question is, we looked at your opinion
10 where you stated that the HP Pavilion,
11 including the battery, failed. My
12 question is, reading this I read this
13 to exclude the charger from that
14 opinion; is that fair?

15 A. Yes, that's correct.

16 Q. Okay.

17 MR. SCHWARZ: I'm sorry
18 can you clarify, you mean
19 that the charger failed;
20 is what you meant by that?
21 Eliminated that the
22 charger failed?

23 MR. LEVITES: Yes,
24 absolutely. His opinion
25 was that the HP Pavilion,

1 A. LITZINGER

2 including the battery,
3 failed. I am asking based
4 on this, is the charger
5 excluded from that
6 opinion, and his answer is
7 yes, I believe.

8 Q. Right, Mr. Litzinger?

9 A. That's correct.

10 Q. Okay. Is there any evidence
11 in these photographs, and again, I
12 understand the limitations of these is
13 for the -- it was illustrative
14 photographs, but is there any evidence
15 in these photographs, or that you can
16 describe to me from your examination
17 that this charger was in fact plugged
18 in? Like, is there anything we can
19 look for in these photographs?

20 A. So looking at, if you want
21 to bring up figure 14, the plug
22 itself, or the plug end. I realize
23 these photos could have been lightened
24 up a little bit, but --

25 Q. Not a problem.

1 A. LITZINGER

2 A. It actually looks better on
3 your screen than it does on the
4 printed copy.

5 Q. How is that?

6 A. Can you zoom in a little bit
7 more, please? Perfect.

8 So to show that this was
9 plugged in, what you can see here is
10 that the plug blades are a lot shinier
11 so there is not a lot of soot
12 conglomeration on there, if you will.
13 You can also see that there does
14 appear to be a bit of a protected area
15 on the face where the plugs go into
16 the, what we call the plug face on
17 this end. So this area does appear to
18 show a protected area that if this
19 wasn't plugged in you may see -- we
20 expect to see more sooting.

21 Q. I am going to try, if I can
22 manage it, let's see if I can draw a
23 square. Bear with me. I believe I
24 know what you are talking about, but I
25 want to make sure that we have it for

1 A. LITZINGER

2 later in the case.

3 Is this the protected area
4 you were just talking about that I
5 draw in the red rectangle?

6 A. If you make it the whole
7 face as you will.

8 Q. Like that (indicating)?

9 A. So you have the plug blades
10 highlighted, so those plug blades
11 go -- see where they meet the plastic
12 housing?

13 Q. Over here where they --

14 A. Yes, but the plug face as a
15 whole. It is going to be hard to do
16 with a box.

17 Q. That's fine. Maybe an
18 arrow?

19 A. Sure. Whatever works for
20 you.

21 Q. Is that clear where the
22 arrow is pointing?

23 A. Like I said, it is that
24 whole plug face where the ground lug
25 as well as the neutral blades go into,

1 A. LITZINGER

2 that flat surface.

3 Q. It is really we are looking
4 at the protected areas shown in both
5 of these areas, by both of these
6 arrows, indicated by these two arrows
7 drawn in red?

8 A. Yes, but if you are
9 indicating what I will call a plug
10 face, yes. The areas that those meet,
11 which is a lot more expansive than
12 what you are talking about there
13 showed signs of protection.

14 Q. Okay. I understand you mean
15 the reverse of the -- for the circular
16 blade is going to go all the way
17 around, and for these two flat plug
18 blades the reverse is going to show
19 the same. I am just trying to
20 indicate with these arrows so we know
21 we are talking about the same.

22 A. It is not limited just where
23 they meet the flat portion of the
24 plug.

25 Q. Okay.

1 A. LITZINGER

2 A. The whole plug area. That's
3 all I am trying to make sure.

4 Q. So the whole plug to you
5 shows signs of protection; is that
6 fair?

7 A. The plug face.

8 Q. So I could also fairly draw
9 this circle and say that everything
10 within this square shows signs of
11 protection to you?

12 A. Yes, yes.

13 Q. Okay.

14 A. Using the other -- the
15 heated blanket plug that we talked
16 about in figure nine, you can see that
17 as an example, that one would show
18 that that does not have a protected
19 area.

20 Q. I am now drawing a circle
21 over the plug blade in nine.

22 A. That's correct.

23 Q. So you are saying the blades
24 are more tarnished looking; is that
25 it?

1 A. LITZINGER

2 A. Yes.

3 Q. Okay. The face of both is
4 the same, so that's not -- I can see
5 the difference in the blades that you
6 are describing.

7 A. The face of the heated
8 blanket plug would appear to be white,
9 not black as in the case of the
10 charger.

11 Q. Okay. That makes sense.
12 So we have drawn squares and
13 the arrows to indicate the areas of
14 protection. Was there -- would you
15 expect the charger itself to be more
16 damaged if it was plugged in during an
17 overcharge or overvoltage event? When
18 I say the charger I mean the entire
19 assembly from the plug ends that go
20 into the receptacle, the converter all
21 the way to the plug end into the
22 notebook.

23 So my question is, would you
24 expect that assembly to be more
25 damaged if it was plugged in during an

1 A. LITZINGER

2 overcharge, overvoltage scenario?

3 A. An over -- when you say
4 overvoltage, what do you mean by that?

5 Q. Maybe I am being an exact
6 because I have read too many of these
7 reports. I will be -- I will take it
8 back to a bigger level generality.

9 If this was plugged in
10 during an electrical event with the
11 notebook, would you expect the
12 charger, the whole charger assembly to
13 show more damage than is depicted in
14 this photograph or no?

15 MR. SCHWARZ: Objection
16 to the form of the
17 question. You can answer.

18 A. So I guess overvoltage can
19 mean a lot of things, and that's where
20 answering the question isn't a simple
21 yes or no.

22 Q. How about just electrical
23 event --

24 MR. SCHWARZ: I don't
25 mean to interrupt you, but

1 A. LITZINGER

2 I need to. I think what
3 you are trying to ask is
4 if there was an electrical
5 event within the battery
6 pack, would you expect
7 something?

8 Because I think what is
9 tripping him up is there
10 could be an electrical
11 event any place in the
12 computer or in the charger
13 itself. I think what you
14 are asking is if there was
15 an electrical event like
16 an overvoltage in the
17 battery pack, would you
18 expect damage to the cord.
19 I think that's what you
20 are asking. I think
21 that's what is tripping
22 him up.

23 MR. LEVITES: Yeah, it
24 is not quite that, but
25 that's close.

1 A. LITZINGER

2 Q. What I am getting at,
3 Mr. Litzinger, is your opinion in this
4 case, and you testified is that the HP
5 Pavilion including the battery failed;
6 right?

7 A. Correct.

8 Q. And you couldn't identify
9 the specific mechanism of failure, but
10 it is your opinion that it was the
11 notebook including the battery
12 exclusive of the charger that failed;
13 right?

14 A. Correct.

15 Q. With that understanding, I
16 am asking, we don't know exactly what
17 failed within the notebook based upon
18 your opinion here, but with your
19 opinion that it was the notebook that
20 failed, my question is, with such a
21 failure, which is electrical in nature
22 as we understand it, would you expect
23 this charger to be more damaged?
24 Should it be burned, blown up, you
25 know, anything like that, or is this

1 A. LITZINGER

2 consistent with the kind of failure
3 that you observed in this case?

4 A. So a failure of the laptop
5 and/or its battery, to include its
6 battery, I would not expect to see
7 damage to the charger itself.

8 Q. And why is that?

9 A. This charger is just
10 outputting what it is designed to
11 output, or what it is intended to. I
12 don't recall off the top of my head
13 what the output voltage of this is,
14 but this charger doesn't know what is
15 going on at the laptop any more than
16 the laptop knows what is going on at
17 the charger other than what is coming
18 in from that charger.

19 So this charger in and of
20 itself I wouldn't expect to see --
21 unless it was -- this was on the
22 floor, so it was on the floor further
23 away so the level of damage is
24 consistent from where it was located
25 in the room, which didn't show a lot

1 A. LITZINGER

2 of heat damage. I believe we did
3 X-ray it, and it didn't show any signs
4 of internal failure, and that's how we
5 were able to eliminate it.

6 Q. Okay. That makes sense to
7 me. I am just thinking of what you
8 are saying is that the charger is just
9 pushing voltage out to the computer
10 and battery, and that when the
11 computer and battery fail it is going
12 to have no -- the charger itself is
13 not going to melt, burn, explode, or
14 anything like that, you wouldn't
15 expect that to happen?

16 A. That is correct.

17 Q. Okay. In that RYOBI case
18 you talked about, was the charger
19 okay, was it intact afterwards?

20 A. No, it was not.

21 Q. Was it damaged by the fire,
22 or was it damaged by the electrical
23 event within the drill?

24 A. Without getting into too
25 many aspects of it, the battery was on

1 A. LITZINGER

2 charge at the time. A RYOBI battery
3 sits on top of the charger itself, or
4 this particular model did. Due to
5 level fire damage it was not able to
6 be determined was it the charger that
7 failed, or was it an issue of the
8 battery. Both were connected. Both
9 were on at the time. Unfortunately
10 one of the issues in that case was
11 that at the time it got to deposition
12 the insured was deceased.

13 Q. I see. So you are talking
14 about, like, a weed whacker battery.
15 It slots directly into the charger.
16 Both were consumed by fire so you
17 can't tell which was the victim and
18 which was the cause?

19 A. That's correct.

20 Q. And because this charger is
21 not mated directly to the battery we
22 don't have that factual situation;
23 right?

24 A. That's correct.

25 Q. Okay. I am going to turn to

1 A. LITZINGER

2 page 12 of the report, which shows

3 figure 15. Do you see that,

4 Mr. Litzinger?

5 A. I do.

6 Q. So page 12 you state, "the

7 laptop remains depict damage to the

8 laptop's battery compartment that is

9 inconsistent with fire exposure and

10 fire attack"; do you see that?

11 A. Correct.

12 Q. My question is, this

13 photograph in the top left that shows

14 the whole notebook assembly, doesn't

15 that depict melting and deforming of

16 the plastic casing of the computer?

17 A. Which part of the computer?

18 I'm sorry.

19 Q. The keyboard and the facing.

20 A. There is thermal damage,

21 yes.

22 Q. And there is dripping on the

23 screen?

24 A. Yes, there is.

25 Q. Is that damage consistent

1 A. LITZINGER

2 with a fire exposure?

3 A. That would be consistent,
4 yes, with thermal attack.

5 Q. Can the presence of a hot
6 gas thermal layer damage the laptop?

7 A. It could, but that would
8 be -- we will get a little more into
9 Jason Karasinski's side. I will defer
10 to him on that one.

11 Q. Okay. But if it could
12 damage the laptop it could damage the
13 battery; right?

14 A. It would be a much broader
15 area rather than just the small area
16 that in this photo showing that's the
17 battery compartment that was the most
18 affected.

19 Q. But the battery compartment
20 was filled with fuel; right?

21 A. I guess I would defer to
22 Jason Karasinski on the fuel aspect of
23 that.

24 Q. But a battery pack is fuel
25 for a fire?

1 A. LITZINGER

2 A. It has electrical potential,
3 that is correct.

4 Q. Okay. So we looked at the
5 items from the hallway. My question
6 is, for the other items that were
7 recovered from the armoire, including
8 the items depicted here in figure 15,
9 isn't it true that the damage to each
10 of the items was consistent with some
11 kind of fire exposure?

12 A. I am sorry, can you say that
13 again?

14 Q. Sure. My question is, isn't
15 it true that the items recovered from
16 the armoire, including the laptop and
17 battery debris that we just talked
18 about, isn't it true that the damage
19 patterns that you saw were also
20 consistent with some kind of fire
21 exposure?

22 A. The laptop shows fire
23 exposure, that's correct. I would say
24 electrically it is not consistent, or
25 from the electrical components that

1 A. LITZINGER

2 are there it is not consistent with
3 fire exposure.

4 Q. And why is that?

5 A. So looking at figure 15,
6 while the laptop does show thermal
7 damage, the area of the battery
8 compartment shows the heaviest damage.
9 That would be what I would
10 characterize as localized damage, more
11 importantly, localized damage of an
12 area that has what I will say
13 electrical potential as those
14 batteries are -- even when they are
15 being uncharged they have some sort of
16 electrical energy that's there.

17 We don't know what the state
18 of charge of those batteries at the
19 time of the event, but we do know
20 through testimony of being plugged in
21 they would have been at more than zero
22 state of charge. So they would have
23 had a high -- a much more electrical
24 potential for something to occur.

25 Q. So the lithium battery pack

1 A. LITZINGER

2 has stored energy that gives it
3 electrical potential?

4 A. Correct.

5 Q. So whether it is the victim
6 of the fire or the cause of the fire
7 it is going to show a lot of localized
8 damage; right?

9 A. That's dependent on each
10 case. It is not -- this case isn't
11 going to look like the next case, if
12 you will.

13 Q. Okay. I guess my question
14 is, whether it is the victim or a
15 cause, when a battery pack goes into
16 thermal runaway we typically see this
17 kind of localized damage; right?

18 A. I would defer to Dr. Martin
19 in that regard of what a battery that
20 goes into thermal runaway looks like.

21 Q. Okay. So you can't tell
22 from looking at this if it is victim
23 or cause. You are pointing to the
24 highly localized damage; right?

25 A. That's correct.

1 A. LITZINGER

2 Q. Would you expect it to look
3 any different if it were a victim
4 versus cause in these photos?

5 A. The laptop?

6 Q. Yes.

7 A. Once again -- or the subject
8 laptop, once again I would say the
9 localized damage is something that
10 would be a data point that we would
11 look at and consider when evaluating
12 the fire scene and all potential
13 electrical ignition sources, but to
14 say what I would expect, I don't have
15 an expectation when looking at the
16 evidence until I have considered all
17 aspects.

18 Q. Understood. So it is your
19 opinion that the battery pack was the
20 cause?

21 A. That's not what I am saying.

22 Q. I apologize. Please go
23 ahead.

24 A. No, I wasn't saying that
25 that was the case. I was just saying

1 A. LITZINGER
2 that every fire is different, so what
3 I would expect to see is not -- I
4 don't have an expectation of what I
5 should see. I just look at the
6 evidence, the data points that the
7 evidence gives me to get down to a
8 potential area.

9 Q. I appreciate that. I am
10 trying to kind of drill down on this
11 distinction. You testified that it
12 was the HP -- it was Ms. Marcellin's
13 notebook, including the battery, that
14 failed, but we can't say one way or
15 another what was the mechanism of
16 failure within that notebook; right?

17 A. That's correct.

18 Q. Okay. So with that
19 understanding, the statement that the
20 damage to the battery compartment is
21 inconsistent with a fire exposure
22 appears to be at odds with my previous
23 statement; does that make any sense?

24 A. What I am saying is I can't
25 eliminate the laptop and its battery

1 A. LITZINGER

2 as to a root cause one way or the
3 other or how it started, I would defer
4 to Dr. Martin in that regard, but as
5 far as potential electric ignition
6 sources, this is the only one that I
7 can't eliminate, and that's based off
8 my physical observations of the
9 electrical system as well as the
10 laptop, so all potential ignition
11 sources within the room.

12 Q. All right. I understand. I
13 am just looking at these yellow boxes
14 on the battery, and that is suggestive
15 that the battery as opposed to some
16 other aspect failed to me. Am I
17 drawing the wrong conclusion from
18 this?

19 MR. SCHWARZ: Just so
20 that we are clear, you are
21 talking about the yellow
22 boxes that are in the
23 left-hand side of figure
24 15 of this report?

25 MR. LEVITES:

1 A. LITZINGER

2 Absolutely.

3 MR. SCHWARZ: Okay.

4 Thank you.

5 A. What I am trying to show in
6 that photograph is that the cell in
7 the bottom left-hand corner that's
8 there, that's where that was excavated
9 from. You can actually see it in that
10 photograph with it in place and you
11 can see it out of place.

12 I am merely drawing a
13 distinction that there is damage on
14 both sides. I am not saying one way
15 or the other that it was the battery
16 or the laptop. That's just showing
17 where that item came from in helping
18 to draw attention to the damage.

19 Q. Okay. Thank you. That's
20 helpful.

21 I am going to move to page
22 14 now. Page 14 is the discussion
23 of -- the first half of page 14
24 discusses evidence of item number
25 nine, which was circuit breaker number

1 A. LITZINGER

2 three; do you see that?

3 A. I do.

4 Q. It states that you
5 documented and collected the number
6 three breaker; right?

7 A. That is correct.

8 Q. And you traced it to the
9 receptacle that's depicted in figure
10 19?

11 A. Correct. We actually traced
12 it from the receptacle to the circuit
13 breaker.

14 Q. Okay. But you didn't look
15 at the number four breaker that was
16 tripped at the time of the fire;
17 right?

18 A. That is correct.

19 Q. And you didn't trace that
20 one either?

21 A. That is correct.

22 Q. Looking at photograph 19, or
23 figure 19, pardon me, kind of the same
24 exercise that we went through with the
25 plug blades. What in this photograph

1 A. LITZINGER

2 suggests to you that the notebook was
3 plugged into this receptacle?

4 A. Do you want to bring that up
5 again, please?

6 Q. Sure. I have the image
7 there, I will blow it up. Is that
8 enough there?

9 A. Yes.

10 Q. Okay. What are we looking
11 for here?

12 A. So once again the photo is
13 pixilated, but it would appear that
14 the -- that where this was most likely
15 plugged in is the top receptacle, or
16 the one on the left in this
17 photograph.

18 Q. This one here that I've
19 drawn the square around?

20 A. Correct.

21 Q. Please go on. Sorry.

22 A. No problem. So that
23 receptacle does show what looks like
24 almost what I will say almost no soot
25 conglomeration. When you look at the

1 A. LITZINGER

2 receptacle below it, you can see that
3 there is, especially in that middle
4 section that there is a -- looks like
5 there is a -- yes, right there, that
6 there is some sooting that has started
7 in there.

8 Q. So this to you suggests that
9 the notebook charger was plugged into
10 this larger square on the left, and
11 that this receptacle on the right
12 was -- had nothing plugged into it,
13 and that's why it was sooted?

14 A. Yes. You are starting to
15 see a little bit. Now, this was lower
16 on the ground so you wouldn't expect a
17 high level of that based on its
18 location, but yes, this one shows that
19 there is a little bit more -- it is
20 starting to get sooted up a little bit
21 more than what you would see on the
22 large square.

23 Q. Okay. But there is some
24 sooting over here it looks like;
25 right?

1 A. LITZINGER

2 A. It is hard to say to that
3 level. I don't -- I couldn't really
4 say. To me it doesn't look like there
5 is much, if any, sooting there, but
6 the other receptacle appears to have
7 more soot deposits.

8 Q. Okay. Now, I am going to
9 turn to page 15.

10 A. Okay.

11 Q. I expect that we can
12 probably go through this pretty
13 quickly because you have explained the
14 signs and your analysis with respect
15 to the LED lamps, but I have kind of
16 the same questions here. How were you
17 able to forensically eliminate this
18 bulb remains notwithstanding the
19 obviously thermal damage?

20 A. So based on the lights were
21 reported to be off, to our knowledge,
22 reported to be off at the time of the
23 fire event, and if they were -- I
24 don't recall if Ms. Marcellin turned
25 them on or not at the time of the fire

1 A. LITZINGER

2 discovery, I don't recall that, but
3 the -- for this one it still actually
4 had -- was in relatively I will say
5 intact shape. It is heavily fire
6 damaged, but if you look at that
7 photograph, I would have to blow it
8 up, but I believe that you can see
9 just the sort of the outline of that
10 vent location, but I want to make sure
11 I am being accurate. No, that just
12 might be a soot mark. Actually, this
13 photo, you see those little squares on
14 the face there?

15 Q. These little squares that
16 are depicted within the rectangle?

17 A. Yes, that would be the chip
18 on board. That's what we would be
19 looking for.

20 Q. And the vents for the gas is
21 not depicted in this photo?

22 A. I don't see the vent hole on
23 there, no.

24 Q. Okay. But if you had -- if
25 it had failed you would expect that

1 A. LITZINGER

2 hole to been blown out; right?

3 A. You would see that hole. It
4 would have been readily available,
5 that is correct.

6 Q. We see in the next figure,
7 figure 21, we have battery remains
8 from the C/D corner of the room; do
9 you see that?

10 A. Yes.

11 Q. We talked about this with
12 the other cells so I expect your
13 answer is the same, but do you have an
14 opinion as to whether this cell
15 started the fire?

16 A. I do not. I would have to
17 defer to Dr. Martin.

18 Q. Does the carpet around the
19 cell look particularly burned to you?

20 A. There are some areas of
21 char, I believe, on the photograph in
22 the top left of figure 21 coming
23 right -- if you look at the top of the
24 cell, which would be the top of the
25 photo, you see some what looks like

1 A. LITZINGER

2 charring of the carpeting.

3 Q. So I believe that's -- you
4 are talking about the charring that's
5 depicted in the red square here?

6 A. That's correct.

7 Q. Okay. So is that charring
8 consistent with, like, ignition?

9 A. It would be the cell
10 venting.

11 Q. Okay. But does it look like
12 the fire started right there to you?

13 A. I would defer to Jason
14 Karasinski as far as where the fire
15 started.

16 Q. But you don't have an
17 opinion one way or another whether
18 this is where the fire started?

19 A. That's correct.

20 Q. Okay. So you don't know if
21 the cell in that 21 ignited the first
22 fuels?

23 A. I don't have an opinion on
24 that, no.

25 Q. And you don't have an

1 A. LITZINGER

2 opinion on what the first fuels were?

3 A. That would be correct.

4 Q. Okay. So you wouldn't be
5 opining as to any flammability
6 ratings, or limitations of the
7 ignition source, or anything of that
8 nature?

9 A. That is correct.

10 Q. Okay. But generally
11 speaking, the fuel for a fire has to
12 be capable of being ignited by your
13 hypothesized ignition source; right?

14 A. You would have to have the
15 competent ignition source.

16 Q. Page 16 of your report you
17 refer to -- in the third full
18 paragraph there you refer to NFPA 921
19 and all other authoritative treatise
20 known to the writer.

21 We talked about NFPA 921.
22 We talked about Kirk's. Are there any
23 other authoritative treatises upon
24 which you relied upon your conclusions
25 in this case?

1 A. LITZINGER

2 A. No.

3 Q. Okay. Then you also state
4 in that same paragraph that your
5 analysis is in light of all
6 information provided to date; do you
7 see that?

8 A. That's correct.

9 Q. And so all of the
10 information provided to date as of the
11 date of your report, that's the
12 information we talked about before
13 that's listed on pages two to three
14 and 19 of your report?

15 A. Nineteen of my references,
16 correct.

17 Q. Right. 19 was the
18 references, and two to three was the
19 materials reviewed and the services
20 conducted?

21 A. That's correct.

22 Q. So all of the information
23 provided to date, is that assumed
24 within those references on pages two
25 to three and 19, or is there other

1 A. LITZINGER

2 information?

3 A. That's correct.

4 Q. That's all?

5 A. That's all of it, yes, sir.

6 Q. Okay. And then you
7 reference at that page 19443 ignition
8 sequences.

9 A. That's correct.

10 Q. It says, "this section
11 concerns times when there is no
12 physical evidence of an ignition
13 source." Did I read that right?

14 A. There is more to that
15 sentence, but yes.

16 Q. You are referring to "there
17 are times when there is no physical
18 evidence of the ignition source found
19 at the origin, but wherein an ignition
20 source can be logically inferred by
21 using other data," is that what you
22 mean?

23 A. Yes, just to finish the
24 sentence off. There is much more to
25 144.4.3, but that's just the first

1 A. LITZINGER

2 sentence, yes.

3 Q. Of course. I am not trying
4 to excerpt any relevant context from
5 my question. I am just looking at
6 this first sentence because it appears
7 to impose a condition that this
8 section be referred to at times when
9 there is no physical evidence of the
10 ignition source; is that accurate?

11 A. I am sorry, can you restate
12 that?

13 Q. So I am saying we looked to
14 19443 at times when there is no
15 physical evidence to the ignition
16 source, but the sequence can be
17 logically inferred with other data;
18 correct?

19 A. Correct.

20 Q. So am I correctly reading
21 your reference here in your report as
22 conveying that you found no evidence,
23 physical evidence of ignition source,
24 but you have logically inferred it
25 using other data; is that accurate?

1 A. LITZINGER

2 A. That's correct.

3 Q. Okay. So in your expert
4 opinion there was no physical evidence
5 of the ignition source, but you can
6 infer it logically based on the other
7 evidence you reviewed?

8 A. That would be correct.

9 Q. So the section continues.
10 You will see, I think it is the last
11 sentence of that section. It says,
12 "inferences may be arrived at by the
13 testing of alternative hypotheses
14 involving potential ignition sequences
15 provided that the conclusion regarding
16 the remaining ignition sequence is
17 consistent with all known facts." Did
18 I read that right?

19 A. That's correct.

20 Q. How did you do that in this
21 case?

22 A. So I evaluated -- so if you
23 go down to just below that in the
24 sentence section, that would be my
25 potential ignition sources considered,

1 A. LITZINGER

2 and I have those listed out there if
3 you want to go through that.

4 Q. Yes. So you list the
5 potential ignition sources in that
6 next section, which comprises the
7 Pavilion laptop, the building
8 electrical system, and lightening. My
9 question is, did you consider any
10 other potential ignition sources?

11 A. I only considered the
12 electrical ignition sources as that
13 was the scope of my investigation. At
14 the time there was no other potential
15 ignition sources I identified.

16 Q. Page 18 of the report you
17 stated under fire investigation
18 disposition you stated this case is
19 open. What does that mean?

20 A. This case is still ongoing.
21 So it would be -- we would consider
22 this case open, and that goes to if
23 there is any potential new data that
24 comes forward then it is open, but
25 until the case is -- whatever

1 A. LITZINGER

2 determination is made by the
3 attorneys, we will -- it will remain
4 open on our end until we get told to
5 close our file.

6 Q. Okay. Then under evidence
7 you state 15 items were secured by
8 FRT. My question is, are all of them
9 discussed in your report?

10 A. No.

11 Q. Do you know which ones are
12 not discussed in your report?

13 A. I don't recall which
14 evidence items they are. I only
15 discussed the electrical items as part
16 of the investigation.

17 Q. Okay. Are there any other
18 evidence items other than the ones in
19 your report, and the non-nonelectrical
20 ones vouchered by FRT that you are
21 aware?

22 A. I would have to review the
23 evidence log.

24 Q. But as far as you know, it
25 is these 15?

1 A. LITZINGER

2 A. That's correct. These 15
3 items is what was agreed to by all
4 parties present. The building, or the
5 insurance representative for
6 Mr. Hollowell, ourselves, as well as
7 HP's representative that was at the
8 fire scene as well.

9 Q. Then on the next page there
10 is a technical reviewer listed and a
11 manager reviewer. Who are those
12 people?

13 A. Kaitlyn Marcellus is the
14 engineering manager. She reviews --
15 she does the technical reviews for all
16 employees following the engineering
17 discipline. Klana (phonetic)
18 Karasinski is our end manager, and she
19 does the final review before going out
20 to the client.

21 Q. What was the nature of
22 Ms. Marcellus' review in this case?

23 A. It would be to look at the
24 technical aspects to make sure that
25 they are being explained clearly and

1 A. LITZINGER

2 concisely as well as to ask any
3 questions in regards to, I will call
4 it clarity in the technical sense.

5 Q. Okay. Do you recall if she
6 had any comments, edits, or anything
7 like that clarity wise or any other
8 way?

9 A. Any good technical reviewer
10 has questions, but I don't recall what
11 specific questions. I know she had
12 questions, that's where I would expand
13 a little bit more on what I am trying
14 to explain or the point I am trying to
15 get across in my report, but I don't
16 remember specifics.

17 Q. All right. I am going to --
18 I am looking at your references here.
19 I see the references that are listed,
20 but the only one of these five that's
21 actually cited in the body of your
22 report is NFPA 921. My question is,
23 can you tell me where in your report
24 you looked to these other references
25 listed on page 19?

1 A. LITZINGER

2 A. Yes, absolutely. So the
3 first reference there is development
4 analysis electrical receptacle fires.
5 One of the big things that I do in
6 most fires is I am looking at the
7 receptacles. So using that one I am
8 looking for evidence of a high
9 resistance connection, or often
10 referred to as an HRC, looking for
11 that. Looking for any of those
12 instances which is part of the
13 building evaluation as well as looking
14 at the electrical connections because
15 there are certain instances that will
16 increase the likelihood of such as an
17 HRC, and there are things that would
18 help that are more likely to mitigate
19 that circumstances. That's where I
20 would use that one.

21 The arc mapping and
22 explanation and example is another one
23 that I use on a regular basis for arc
24 mapping -- well, I apologize. So in
25 2009 arc mapping was the term to

1 A. LITZINGER

2 describe that. Now it has been broken
3 out to arc survey, which is the
4 process of finding arcs, and the arc
5 map is the end result where we would
6 add that to a diagram.

7 So that was just a little --
8 as far as the terminology, but the
9 actual substance of it is still
10 relevant today. I use that in my
11 everyday course of my job on most fire
12 scenes, which I did do in this
13 instance, but there were no arc sites
14 located so that's why our arc map does
15 not show it.

16 NFPA 921, we went over that.

17 Forensic investigation
18 techniques for electrical conductors
19 involved in fire, that one as well --
20 that kind of ties into the ATF
21 bulletin. One is used to further
22 expand on distinguishes between arc
23 mapping and melting, but the technical
24 bulletin also references, further
25 references distinguishes between arc

1 A. LITZINGER

2 melting versus fire melting.

3 Those are ones that I used
4 in the course of my regular duties
5 when inspecting electrical systems
6 that are in a fire scene.

7 Q. Okay. So looking at these
8 it is like the -- it appears to me
9 that the numbers two, four, and five,
10 meaning, Mr. Karasinski's article on
11 arc mapping, the Roby article on
12 forensic investigation techniques, and
13 the ATF bulletin all concern arc
14 survey and/or mapping which was not
15 something -- which you didn't produce
16 an arc map because no arcs were found
17 during your survey; is that fair?

18 A. That's correct.

19 Q. Thank you for bearing with
20 me. I was trying to construct that,
21 but that's helpful.

22 These one, two, four, and
23 five, you are relying on them, but
24 because you didn't produce an actual
25 arc survey in this, that's why they

1 A. LITZINGER

2 are not cited; is that fair to say?

3 A. The arc survey did not show
4 anything, so the arc map -- we
5 couldn't produce an arc map.

6 MR. LEVITES: Maybe now
7 is a good time to take
8 another break. Let's come
9 back at 2:05.

10 (Whereupon, a short
11 break was taken at this
12 time.)

13 Q. So before our break we were
14 talking about arc surveying and arc
15 mapping, and you explained that you
16 had done an arc survey, and given that
17 there was no evidence of arcing that
18 you saw, no arc map was repaired; is
19 that an accurate summary of our
20 conversation?

21 A. That's correct.

22 Q. Okay. So my question is,
23 did you do an arc survey of the sewing
24 room/office, the whole house, or
25 something in between?

1 A. LITZINGER

2 A. The sewing room/office.

3 Q. Was there a reason you
4 restricted yourself to that room
5 rather than the rest of the residence?

6 A. All parties present agreed
7 that that was the room of origin, and
8 all other damage was fire progression.

9 Q. So based on what you saw
10 that day you concluded there was no
11 reason to do a survey of the living
12 room or any of the other rooms of the
13 house?

14 A. That's correct.

15 Q. Would you agree you
16 shouldn't eliminate a potential
17 ignition source just because there is
18 no obvious evidence for it?

19 A. Can you say that again?

20 Q. Would you agree that during
21 a fire investigation you shouldn't
22 eliminate a potential ignition source
23 just because there is no obvious
24 evidence for it; right?

25 A. When you say that, do you

1 A. LITZINGER

2 mean -- I guess that is pretty broad.

3 Could you elaborate on that more,

4 please?

5 Q. I am a total laymen, so I am

6 just looking to the NFPA, and that's

7 just one of the things it says, it is

8 194.

9 A. Yeah, to answer your

10 question, it would be based on the

11 area of origin as defined not just by

12 Jason Karasinski, but the other

13 experts; HP's expert, and the building

14 insurer's expert, we -- everyone

15 agrees that was the area of origin,

16 and that the fire progressed from that

17 room to the rest of the house.

18 If there was no clearly

19 defined area of origin we would have

20 done a more extensive arc survey, and

21 by default would have created a more

22 extensive arc map, but based on the

23 agreement by all parties that being

24 the room of origin, we limited it to

25 that room of origin.

1 A. LITZINGER

2 Now, if there was an
3 electrical ignition source in that
4 room that we -- we looked at all
5 potential ignition sources in this
6 specific case within the defined room
7 of origin, and we did collect those
8 for evaluation. Everyone agreed on
9 what was collected. Had somebody
10 wanted something else, or something
11 different we would have collected that
12 for future evaluation, but at the end
13 of the day no one -- everyone agreed
14 that what we collected was all
15 relevant evidence.

16 Q. Okay. So I understand how
17 you drilled down from the more general
18 to the more specific in respect to
19 your investigation in this case, but
20 generally speaking in your work, would
21 you agree that you start -- that at
22 the outset you don't eliminate a
23 source just because there is no
24 obvious evidence for it?

25 A. I don't know if I -- I don't

1 A. LITZINGER

2 know if I am completely understanding
3 what you are saying in that regard.

4 I did evaluate -- as I
5 walked from the area of least damage
6 to the area of most damage I was
7 evaluating all potential electrical
8 ignition courses within those areas,
9 but as I was going through, that was
10 the process by which I went by, but I
11 don't -- I guess, I am trying to
12 answer your question, but I think
13 that's what you are asking. I would
14 need a little bit more specifics, I
15 guess, to be able to answer it more
16 robustly.

17 Q. I appreciate that. I am
18 really asking just in the most general
19 sense in terms of your investigative
20 process as it were separate and
21 outside of this case. I think your
22 answer was responsive to that.

23 This is another general
24 question about how you approach your
25 investigations. Devices that are heat

1 A. LITZINGER

2 producing or capable of producing heat
3 when they sustain a failure, those
4 devices should be on your list of
5 hypotheses; right?

6 A. If they are capable -- if
7 they produce heat, or capable of
8 producing heat?

9 Q. In a failure.

10 A. In a failure, electrically,
11 yes.

12 Q. Do you know what a heat and
13 flame vector technique is?

14 A. That would be something that
15 Jason Karasinski would be more
16 familiar with than I am.

17 Q. Okay. Do you know what a
18 heat and flame vector technique is?
19 Because I don't.

20 A. I have -- it has been
21 discussed in the past, but I couldn't
22 be super specific on it.

23 Q. Okay. But you didn't do one
24 in this case; right?

25 A. I did not.

1 A. LITZINGER

2 Q. What do you think the
3 inhabitants of the house were doing
4 when the fire started?

5 A. My understanding is they
6 were sleeping.

7 Q. What do you base that
8 understanding on?

9 A. The testimony Ms. Marcellin,
10 I believe it was the -- I don't recall
11 the exact time, but I believe it was
12 sometime in the early morning or
13 middle of the nighttime frame. And I
14 believe Mr. Hollowell was found in the
15 bedroom.

16 Q. Okay. Are you aware that in
17 the local investigation records the
18 toaster oven was on at the time they
19 responded to the fire?

20 A. I may have observed that,
21 but I don't recall that specifically,
22 no.

23 Q. And if Mr. Beeten (phonetic)
24 said it was glowing, and that he
25 unplugged it on arrival, does that

1 A. LITZINGER

2 refresh your recollection at all?

3 A. No, it does not. I'm sorry.

4 Q. Why would the toaster oven
5 be on if the inhabitants of the house
6 were asleep?

7 A. I don't have an answer for
8 you.

9 Q. Is this evidence that
10 someone might have been awake in the
11 house and was using a toaster oven,
12 would you consider that as a potential
13 ignition source?

14 A. It would be considered. Any
15 electrical item within a building or a
16 house has the potential to have a
17 failure to cause a fire, but just
18 because something has potential
19 doesn't mean that it did.

20 Q. Did you consider the toaster
21 oven?

22 A. In this particular instance,
23 I would say no, I did not.

24 Q. Are you aware of toaster
25 ovens starting fires ever?

1 A. LITZINGER

2 A. It is possible. It is a
3 heat-producing device, as you said,
4 but the kitchen was one of the first
5 areas that I encountered upon entering
6 the house from the B side, so that
7 would have been in the relatively
8 least damaged portion of the house as
9 you progressed inward towards the area
10 of most damaged.

11 Q. Did you look at the electric
12 couch as an ignition source?

13 A. The electric couch, I did
14 not based on the damage that was
15 present to it.

16 Q. So it was pretty damaged;
17 right?

18 A. When talking about damage to
19 a couch, I am going to say no. When
20 you look at couches that are involved,
21 I have investigated fires that have
22 involved furniture fires, we will call
23 it for lack of a better word, that
24 couch was relatively intact compared
25 to ones that had been directly

1 A. LITZINGER

2 involved in fires.

3 Q. Okay. That's helpful.

4 Maybe I can see if I can pull up one

5 for you so that we can take a look.

6 Just bear with me. I think there are

7 some photos of the couch. I will put

8 these up. Do you see that,

9 Mr. Litzinger, those two photos of the
10 couch?

11 A. Yes, I do.

12 Q. You said that it was

13 relatively intact. To me it looks

14 pretty burned, but you are saying it

15 should be more burned; is that right?

16 A. Yes. And I am coming from

17 the point of view of electrically

18 operated whether they have -- as we

19 have discussed, furniture power

20 distribution units, or FPU for short,

21 so those or any type of a motor

22 involved. All of those electronics or

23 electrical items are typically located

24 in the lower portion of the couch, so

25 the seating area down.

1 A. LITZINGER

2 Q. Okay. So is it your
3 testimony today that because the
4 seating area was not burned that
5 that's why the couch is as relatively
6 less damage as you testified earlier?

7 A. No, I am talking in regards
8 to a potential electrical issue the
9 damage isn't consistent for what I
10 would be looking for for a couch that
11 is electrically operated. But talking
12 about areas considered, the origin and
13 cause experts, Jason Karasinski, the
14 representative for the insured, as
15 well as the representative for HP all
16 agree the area -- the room of origin
17 was the sewing/office.

18 Q. Did you agree?

19 A. Based on fire patterns you
20 would have to ask Jason Karasinski. I
21 was there to look at the electrical
22 systems.

23 Once all parties agreed of
24 the room of origin is when I started
25 with electrical in that room. I was

1 A. LITZINGER

2 able to limit my scope based off of
3 their observations and expert opinion.

4 Q. So you don't disagree or
5 disagree with their determination,
6 with Mr. Karasinski's determination,
7 you just relied upon it; is that fair?

8 A. I relied upon not only
9 Mr. Karasinski, but all other parties
10 present.

11 Q. Right. So all of the other
12 parties were looking at the office and
13 sewing room. You didn't form an
14 opinion one way or the other, and you
15 relied on that determination that all
16 of the parties made?

17 A. That's correct.

18 Q. Okay. In looking at this
19 couch, if this couch had started the
20 fire you are saying the whole bottom
21 should be burned up; did I understand
22 that right?

23 A. I would expect more damage
24 to the bottom portion as well, that's
25 correct.

1 A. LITZINGER

2 Q. Okay. How about the gas
3 furnace, did you discuss that in your
4 report?

5 A. I did not.

6 Q. Is it fair to say you didn't
7 address that as a potential ignition
8 source either?

9 A. That's correct.

10 Q. You didn't physically
11 investigate the furnace; right?

12 A. No, that would have been
13 Jason Karasinski.

14 Q. Do you know where the
15 furnace is in the house?

16 A. It is -- yes, it is in the
17 hallway adjacent to the closet, the
18 sewing room/office closet.

19 Q. Okay. So it abutted the
20 area of origin as determined by
21 Karasinski?

22 A. Correct.

23 Q. Did you know that the local
24 investigator said that the furnace was
25 blown out when they came to the site

1 A. LITZINGER

2 of the fire?

3 A. I had heard that. I don't
4 know when I heard that.

5 Q. Does that have any
6 significance to your conclusions?

7 A. That was a gas fire furnace,
8 so I would not have been looking at
9 it.

10 Q. Okay. Was it possible that
11 the ignition source was not electric
12 in this case?

13 A. For anything nonelectric you
14 would have to talk to Jason
15 Karasinski.

16 Q. Okay. But with the
17 understanding that you are engaged to
18 look at electrical ignition sources,
19 and that's your expertise, and that's
20 what your report is, and that's what
21 the subject of your testimony is, is
22 it also possible that the fire was
23 started by a nonelectrical source?

24 A. Based off FRT's review, that
25 was not the case.

1 A. LITZINGER

2 Q. Okay. Based upon your
3 review of Mr. Karasinski's work you
4 agree with him that it is not possible
5 that the source of the ignition was
6 nonelectric?

7 A. That's correct.

8 Q. Did you know there were
9 burnt candles in the house?

10 A. I believe I heard about that
11 after the fact, but I did not observe
12 any of that within the agreed upon
13 room of origin.

14 Q. Okay. So we talked about
15 the rebuttal report of Mr. Karasinski,
16 and I am thinking that it is probably
17 not the best use of our time to put it
18 up and ask you questions about it
19 because you neither assisted in the
20 drafting or the preparation of the
21 opinions inside of it; is that fair to
22 say?

23 A. That's correct.

24 Q. Okay. So I won't put it up
25 here and go through it with you.

1 A. LITZINGER

2 We talked about the couch.

3 We talked about the furnace.

4 Did you ever see

5 Ms. Marcellin's supplemental

6 declaration? I know you testified you

7 were aware of it, and it was prepared

8 recently, but did you ever read it?

9 A. No, I did not.

10 Q. In a developing fire in a
11 compartment, or a closed room like the
12 room of origin that Mr. Karasinski
13 concluded, how does a hot gas layer
14 form?

15 A. You would have to talk to
16 Jason Karasinski about that.

17 Q. What does the NFPA say about
18 that though; do you know?

19 A. I would have to review that
20 section.

21 Q. Do you know what the form of
22 heat transfer is between the gas layer
23 and a room in a compartment fire?

24 A. Not off the top of my head I
25 do not.

1 A. LITZINGER

2 Q. But this was a compartment,
3 right, this room, it had a ceiling?

4 A. That question would be more
5 appropriate for Jason Karasinski to
6 talk about.

7 Q. Does the fact that it is a
8 room with a ceiling have any affect on
9 your electrical analysis, the fact
10 that it is a compartment, or is it
11 irrelevant?

12 A. It does not.

13 Q. When you went to the scene,
14 is it fair to say in that diagram we
15 looked at earlier of the vouchered,
16 the recovered battery cell components
17 that the majority of the cans and the
18 electrodes were in the center of the
19 room or the opposite corner?

20 A. No. So the items on that
21 diagram only show what was part of
22 item number one. Item number one was
23 labeled with letters. I forget the
24 number, I think 12 or something items
25 as part of that. That's what that

1 A. LITZINGER

2 diagram shows.

3 During the excavation we
4 did -- the other items that were
5 collected to include I believe that
6 one can see later on in my report,
7 that was found in the C/D corner.
8 That's not shown on the diagram. The
9 diagram started getting cluttered with
10 the initial information, so we did not
11 include that. It could be included,
12 but we didn't include that for clarity
13 of item number one, but no, it didn't
14 just come from the center of the room.

15 Q. No, I may have swallowed the
16 end of my question there, and I
17 apologize. What I was asking is,
18 would you agree that the majority of
19 the cans and electrode materials were
20 in the center or the opposite side of
21 the room, meaning that C/D corner
22 where you got the other cell; would
23 you agree with that?

24 A. The majority was, but there
25 was battery remains that were

1 A. LITZINGER

2 recovered while we were excavating the
3 closet space.

4 Q. We looked at some of the
5 pictures, but from your recollection
6 from that day, did you see any thermal
7 damage or ignition of other
8 combustible materials at the floor
9 level where you found and recovered
10 this debris?

11 MR. SCHWARZ: This
12 debris, meaning, the
13 battery cell components in
14 the closet?

15 MR. LEVITES: That were
16 found in the center,
17 opposite, and in the
18 closet, yes.

19 A. Sorry, can you ask that
20 again?

21 Q. So you just testified that
22 you recovered cell can and electrode
23 materials from the center of the room.
24 You said you also recovered some
25 materials from the C/D corner of the

1 A. LITZINGER

2 room. You also recovered some
3 materials from the floor of the
4 closet.

5 My question is, did you
6 observe any floor level thermal damage
7 at any of those places?

8 A. There was charring to the
9 floor at various areas, yes. Even the
10 C/D corner did show some charring, as
11 we discussed earlier, while limited,
12 but yes, there were definitely charred
13 areas around the battery cans and cell
14 remains.

15 Q. So there was some thermal
16 damage in the form of charring, but
17 you didn't see any evidence of
18 combustion; is that fair to say?

19 A. Well, the closet -- I would
20 say the charring is showing that it is
21 starting to off gas. Are you talking
22 about open flame?

23 Q. Open flame.

24 A. In terms of -- I couldn't
25 offer an opinion as to what was all on

1 A. LITZINGER

2 fire, but there is definitely evidence
3 around the room in various areas
4 around these cans as well as the
5 debris itself to include the closet
6 debris that are either charred or, you
7 know, you can't say one way or the
8 other because the fire was out when I
9 got there. There is definitely more
10 areas where it appears there was open
11 flame, and areas where there may not
12 have been necessarily open flame.

13 Q. That's what I am trying to
14 get at. These areas where all of the
15 cell ejecta was found, when we went
16 over it, it looked like there was more
17 evidence of charring than an open
18 flame-type combustion. I am asking if
19 you observed anything inconsistent
20 with that?

21 A. No, there were varying
22 degrees of charring/suggestive of open
23 combustion, yes.

24 Q. Which of the recovered cell
25 ejecta showed signs of open flame

1 A. LITZINGER

2 combustion?

3 A. That one I would defer to
4 Jason Karasinski to make that opinion.

5 Q. So you don't know which of
6 them would have been open flame
7 combustion versus just charring?

8 A. That's correct. I wouldn't
9 be able to offer an opinion on that.

10 Q. Okay. Would it help if we
11 went back to the pictures?

12 A. No, I just wouldn't offer an
13 opinion which ones were involved in
14 open combustion and which ones were
15 not.

16 Q. When you went into the room,
17 the sewing room, the office, did you
18 notice that -- what observations did
19 you make of the combustible materials
20 that were in the armoire around the
21 subject notebook?

22 A. There were -- I believe that
23 there were papers underneath it as
24 well as there was some I would call
25 them light combustibles in and around,

1 A. LITZINGER

2 I believe on top there might have been
3 some papers or light combustibles on
4 top as well.

5 Q. And those weren't burned up
6 in the fire; right?

7 A. I would say there were
8 various degrees of thermal decay.

9 Q. So some were fully burned
10 up, and some weren't burned at all?

11 A. I will say just various
12 degrees of thermal decay. Whether
13 that's burned up or not, I don't
14 recall exactly where that would be.

15 Q. If you take a look at page
16 seven of your report, which is figure
17 six.

18 A. Okay.

19 Q. I appreciate your report has
20 captions for all of the -- has the
21 accessibility captions.

22 A. I didn't create that.

23 Q. No, of course. It is a
24 software, mine does the same.

25 So this is what I am asking

1 A. LITZINGER

2 about here. Does that help answer the
3 question at all?

4 A. Yes. This is a little low.
5 I guess I would include on top of the
6 armoire as well that this picture just
7 doesn't show that. Yes, there were
8 definitely papers and things of that
9 nature in that area before, in and
10 around as I said earlier.

11 Q. Do you have an opinion as to
12 why there appears to be limited
13 combustion of these papers and other
14 objections in the armoire, and yet the
15 materials in the closet were ignited?

16 A. I don't have an opinion on
17 that. You would have to talk to Jason
18 Karasinski in that regard.

19 Q. So you don't know why all of
20 these papers weren't incinerated
21 basically?

22 A. That portion -- that would
23 have been outside of my scope. That
24 would be more within Jason
25 Karasinski's scope.

1 A. LITZINGER

2 Q. Okay.

3 MR. LEVITES: I am just
4 going to take -- maybe we
5 can take a longer break
6 because I don't think I
7 have too much more. If we
8 can go until 2:40, I think
9 I should be done within an
10 hour of that or less.
11 Let's come back at 2:40.

12 MR. SCHWARZ: Okay.

13 (Whereupon, a short
14 break was taken at this
15 time.)

16 Q. So my first question was,
17 you mentioned in one of your cases
18 there was no electrical cause for the
19 fire because there was an unattended
20 candle and a dog. So did I correctly
21 infer from that that the cause of the
22 fire was the candle being knocked over
23 by a pet?

24 A. That would be correct. That
25 was one of our other O and Cs that I

1 A. LITZINGER
2 was working with. Originally it was
3 reported or suspected that there was a
4 ceiling fan that was overhead. That
5 would be -- that was the -- that and a
6 potential RPC as well were the two
7 electrical items, which is why I was
8 brought in on that investigation.

9 Those two items were -- as
10 well as the building electrical system
11 itself were subsequently eliminated,
12 and the opposing expert agreed with
13 that, and then my origin of cause
14 investigator for that file, that was
15 his determination.

16 Q. What -- I am sorry, you said
17 RPC?

18 A. It stands for relocatable
19 power cap. Most people would refer to
20 those as, like, power strips or surge
21 suppressors, but the actual look at
22 the back it says relocatable power
23 cap.

24 Q. As a result of all of these
25 cases you might understand why I don't

1 A. LITZINGER

2 have any of those in my house. I was
3 just helping my brother-in-law move,
4 and he had an old one covered in dust.
5 I said, how old is this thing? Is it
6 more than two years old? He said, oh
7 yes, it has got to be, whatever, I
8 said you know they only warranty these
9 things for a year because they are not
10 supposed to last ten years.

11 A. Right.

12 Q. Okay. So you looked at the
13 ceiling fan, you looked at the RPC,
14 and you were able to rule those out in
15 this case; right?

16 A. That is correct.

17 Q. Then the determination with
18 respect to the candle and the pet was
19 all beyond your analysis?

20 A. That was beyond my scope,
21 yes. That was my origin and cause
22 investigator, that was part of his
23 scope.

24 Q. Okay. And I think you said
25 you weren't sure if you had seen a

1 A. LITZINGER

2 picture of the candle in this case?

3 A. I don't recall making that
4 observation while I was at the fire
5 scene.

6 Q. I am going to put it up for
7 you. Do you see the candle there?

8 A. I do.

9 Q. Does that refresh your
10 recollection as to whether you saw the
11 candle at the time of the fire?

12 A. I mean, I see it in this
13 photograph, so yes, that's -- there
14 was a candle present. It looks like
15 the couch we are looking at earlier.

16 Q. Yes.

17 A. There was a candle present,
18 yes, I agree with that.

19 Q. But does that refresh your
20 recollection as to whether you saw the
21 candle at the time, or just looking at
22 this picture you now know there must
23 have been one?

24 A. Yeah, the latter.

25 Q. Did you know that there was

1 A. LITZINGER

2 a cat in this house?

3 A. I don't recall that

4 information, no.

5 Q. Does it change any of your
6 opinions or anything?

7 A. It does not.

8 Q. Okay. And then the one
9 other thing, I asked you earlier about
10 your review of Ms. Marcellin's
11 statements, deposition, and her
12 affidavit, and if you found them to be
13 consistent; do you remember that?

14 A. Correct, yes.

15 Q. When we were talking about
16 it you said the only thing that you
17 can think of with respect to an
18 inconsistency was about an old
19 notebook; do you remember that?

20 A. Yes, I do.

21 Q. What was the inconsistency
22 about the old notebook?

23 A. Per her, I believe it was
24 her deposition she said it was in the
25 closet. There was nothing in the

1 A. LITZINGER

2 closet. There is no older laptop in
3 the closet, or in the hallway debris
4 that was collected for inspection.

5 Q. Okay. So we don't know
6 where this notebook is, or you
7 certainly don't know?

8 A. I don't know. It was not
9 collected as part of the evidence that
10 we -- from the scene.

11 Q. And you would expect to find
12 debris of this notebook in the -- when
13 you were performing your
14 investigation; right?

15 A. Yes.

16 Q. A house fire wouldn't
17 disintegrate it?

18 A. I mean, it can barely fire
19 damage it, but I would expect to find
20 remains that we could identify as
21 being for a computer.

22 Q. Okay. So we talked about
23 the way that you went about your
24 investigation, the analysis that you
25 performed, the CT scan that you

1 A. LITZINGER

2 examined, the X-rays. Was there any
3 other physical testing of your
4 hypotheses in this case that we
5 haven't talked about yet?

6 A. No.

7 Q. Is there anything else that
8 you want to tell me about the fire, or
9 your investigation of the fire and the
10 electrical system of the house that
11 you haven't had the chance to tell me
12 today that you would like to tell me?

13 A. No.

14 Q. Is there any question that I
15 should have asked you, but I didn't
16 that would help you clarify or expand
17 on your opinions?

18 A. No.

19 Q. And did you understand all
20 of my questions today?

21 A. Yes.

22 Q. Okay. With the exception of
23 those for which you requested
24 clarification and it was provided?

25 A. Yes.

1 A. LITZINGER

2 MR. LEVITES: I believe
3 with that my questions are
4 done. I will turn you
5 back over to Attorney
6 Schwarz, and thank you for
7 your time today.

8 THE WITNESS: Thank you
9 very much.

10 MR. SCHWARZ: I have no
11 questions, so thank you,
12 Andy.

13 (TIME NOTED: 2:50 p.m.)
14
15

ANDREW LITZINGER

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2 A C K N O W L E D G E M E N T

3 STATE OF NEW YORK)

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6 I, ANDREW LITZINGER, hereby
7 certify, I have read the transcript of
8 my testimony taken under oath in my
9 deposition of March 20, 2025; that the
10 transcript is a true, complete and
11 correct record of what was asked,
12 answered and said during this
13 deposition, and that the answers on
14 the record as given by me are true and
15 accurate.

16

17

ANDREW LITZINGER

18

19

Signed and subscribed to
20 before me, this _____ day
of _____ 2025.

21

22 Notary Public

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INDEX TO TESTIMONY

WITNESS	EXAMINATION BY	PAGE
Andrew Litzinger	Mr. Levites	5

INDEX TO EXHIBITS

LITZINGER

EXHIBITS	DESCRIPTION	PAGE
1	26-page Andy Litzinger report dated October 14, 2024	49
2	Rebuttal report of Mr. Karasinski dated December 31, 2024	51

1

2

C E R T I F I C A T E

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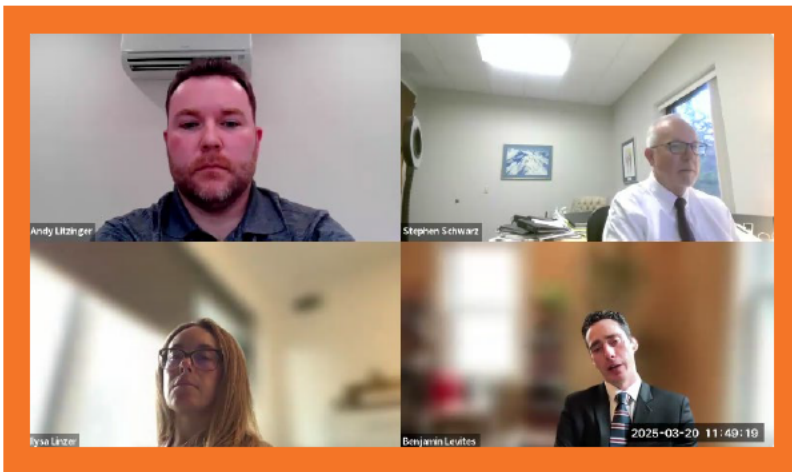
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A			
a.m 1:15 ability 81:2 able 12:22 14:11 24:25 35:7 75:3 76:3 80:2 87:15 90:10 100:16 101:10 117:25 118:13 119:4 120:3 134:20 144:3 145:14 161:5 162:5 175:17 195:15 202:2 212:9 217:14 above-mentioned 1:20 absolutely 60:5 68:2 74:18 108:22 118:24 150:24 171:2 188:2 abuse 102:12 abutted 203:19 ABYC 33:6 acceptable 41:2 accepted 48:22 49:3 accessibility 213:21 accuracy 14:12 accurate 85:7 94:6 176:11 182:10,25 191:19 223:15 acronym 89:10 act 131:23 action 1:8 226:17	activated 117:18 147:21 148:13,24 active 30:23 33:22 34:21 59:8 activity 12:4,7 actual 111:3 189:9 190:24 216:21 add 66:6 189:6 addition 144:12 additional 21:19 63:23 119:22 address 4:16 29:19 99:22 113:6 203:7 addressing 33:20 adequacy 14:12 adequate 17:10 adjacent 203:17 administer 3:18 affect 207:8 affidavit 21:6,23 22:4 24:7 25:13 26:3,5,11 219:12 aftermarket 83:18 85:16 86:2 106:9 against- 1:8 age 38:14 agencies 107:23 112:4	ago 30:2 76:21 agree 4:22 7:14 8:9 14:10 17:2,8 85:18 86:6 108:18 112:23 130:16 192:15,20 194:21 201:16,18 205:4 208:18,23 218:18 agreed 3:4,11,16 85:15 91:14 186:3 192:6 194:8,13 201:23 205:12 216:12 agreement 193:23 agrees 193:15 ahead 111:16 168:23 air 107:25 112:6 aircraft 31:3 alarm 148:16 alert 63:21 allegations 13:18 alleged 15:5,11 alleging 17:24 allow 6:24 allowable 40:22 41:17 allows 32:10 alterations 86:9 alternative 183:13	amazing 8:18 analysis 14:7 55:8 78:11,16 99:3,7,13 102:7,10 102:18,20 104:17 104:22 120:11,14 124:17 175:14 180:5 188:4 207:9 217:19 220:24 and/or 46:13 74:23 93:20 137:21 160:5 190:14 Andrew 1:17 4:12 29:14 222:15 223:6,17 225:5 226:8 Andy 29:18 49:10 50:16 52:6 123:7 222:12 225:11 angle 141:6 answer 6:17,17 7:7,11,23 12:23 15:17 20:7 23:7,16 24:25 40:16 44:10 48:19 58:6 71:9 76:3 79:7 80:25 81:7 83:6,10 83:13 92:3 93:22 99:14 120:3,6 125:16 143:22 151:6 157:17 177:13 193:9 195:12,15,22 198:7 214:2 answered 19:20 54:14 102:6 105:12 223:12 answering 157:20 answers 8:19,22 23:11,21

223:13	approximately	115:20	54:23
anticipate	31:13	arrived	assist
6:21	arbitrations	183:12	119:5
anybody	34:10	arrow	assisted
103:10 141:3	arc	153:18,22	205:19
apologies	11:13,14,14,15,18,21	arrows	associate's
76:19	11:23,24,25 12:10	154:6,6,20 156:13	31:14
apologize	142:24 188:21,23	article	assumed
9:19 28:19 33:19	188:25 189:3,4,13	190:10,11	180:23
76:18 77:23,24	189:14,22,25	articles	ATF
81:12 105:3 113:22	190:11,13,16,25	43:11 48:16	189:20 190:13
116:8 118:21	191:3,4,5,14,14,16	aside	attack
129:20 139:17	191:18,23 193:20	130:14	132:13 163:10 164:4
142:9 168:22	193:22	asked	attainment
188:24 208:17	arcing	20:20 25:9 68:10	30:19
appear	12:4,6,11,16 191:17	69:7 219:9 221:15	attempt
41:24 68:16 130:18	arcs	223:11	90:25 91:18,22
134:15 138:17	189:4 190:16	asking	attempting
152:14,17 156:8	area	5:11 7:4 18:20 26:25	75:13 92:23
173:13	36:20 100:9,12	44:12 80:14 111:11	attended
appearance	103:23,25 106:24	124:22 151:3	73:3
139:22	109:25 130:16	158:14,20 159:16	attention
appeared	131:19 133:12	195:13,18 208:17	121:14 171:18
42:9	137:6 143:2,4	211:18 213:25	attorney
appears	144:23 145:2,6	asleep	5:10,16 9:5,8 10:8
52:16 57:19 129:22	152:14,17,18 153:3	198:6	21:24 30:9 65:24
138:21 169:22	155:2,19 164:15,15	aspect	66:9 83:22 222:5
175:6 182:6 190:8	166:7,12 169:8	45:23 46:7 164:22	attorneys
211:10 214:12	193:11,15,19 195:5	170:16	2:4,8 3:5 56:8 185:3
appliance	195:6 199:9 200:25	aspects	attributes
17:3,9,13,18	201:4,16 203:20	45:16 107:7,11	101:4
appliances	214:9	114:16 161:25	authentic
32:14	areas	168:17 186:24	125:6
applied	31:25 37:8 130:19	assembly	authoritative
14:6 89:21	146:2 148:18 154:4	98:19 156:19,24	48:22 179:19,23
applies	154:5,10 156:13	157:12 163:14	authorized
33:7	177:20 195:8 199:5	assess	3:18 81:11,13
appreciate	201:12 210:9,13	15:15	available
6:21 41:15 76:21	211:3,10,11,14	assessing	55:5 115:3 177:4
104:10 169:9	armoire	15:10 45:4	avoid
195:17 213:19	165:7,16 212:20	assessment	8:22
approach	214:6,14	15:3	awake
195:24	arrival	assigned	198:10
appropriate	197:25	66:19	aware
137:16 207:5	arrive	assigning	18:2 22:4,8,12,25

23:10,20 30:15 57:7 59:9 64:13 67:17 69:15 86:13 185:21 197:16 198:24 206:7	basically 35:4 36:18 37:2 40:5 55:3 136:23 137:17 214:21 basis 144:8 188:23 batteries 43:15 78:8 88:17,25 89:22 102:3 124:18 166:14,18 battery 17:19 42:19,21,23 43:7,22 47:6,9,9 60:23,24 61:10 62:2 62:11,23 74:23 75:11,15 76:25 78:11,17,19,22 79:4 79:21,23,23 80:11 80:12,19 81:4,16,17 82:9,13,20 83:19 84:7 85:6,16 86:2 87:11,16,24 88:5,11 89:4 91:10 96:17 97:4 98:7 100:25 101:15 106:9 107:4 114:14 125:4,18 126:4 129:23 135:5 145:18 146:12 149:11,13,14,16 150:11 151:2 158:5 158:17 159:5,11 160:5,6 161:10,11 161:25 162:2,8,14 162:21 163:8 164:13,17,19,24 165:17 166:7,25 167:15,19 168:19 169:13,20,25 170:14,15 171:15 177:7 207:16 208:25 209:13 210:13 battery-powered 146:14 bear	59:20 64:11 152:23 200:6 bearing 190:19 bedroom 197:15 Beeten 197:23 beginning 35:12 71:23 109:13 begins 50:14 57:15 113:25 believe 14:22 20:4 21:7,18 21:24 22:16 23:25 24:9 28:21 30:2 40:15 58:16 60:17 67:6 75:10,25 76:4 76:12,15 81:8,10 83:14 85:14 94:17 95:17 103:8,24 110:7,14 127:6 133:4 136:2 137:11 138:17 143:13 149:16 151:7 152:23 161:2 176:8 177:21 178:3 197:10,11,14 205:10 208:5 212:22 213:2 219:23 222:2 believed 133:18 143:19 Benjamin 2:10 5:5 best 59:16 76:21 81:2 106:3 205:17 BETKE 2:8 better 50:2 57:22 81:6 128:3 139:11 152:2 199:23 beyond	66:6 97:6 102:9 217:19,20 biasing 137:10,17 bids 35:11 big 31:4 93:9 188:5 bigger 157:8 bill 54:21 billed 64:15 billing 57:6 70:3 bit 34:14 45:19 50:2 53:15 57:25 60:4 63:17 139:19 151:24 152:6,14 174:15,19,20 187:13 195:14 black 156:9 blackened 142:16 143:10 Blackmon-Farrell 35:2 blade 154:16 155:21 blades 152:10 153:9,10,25 154:18 155:23 156:5 172:25 blank 108:23 blanket 24:20 132:23 133:19 134:10 143:20 155:15 156:8 blood 226:17 blow 57:20 119:9 127:19
B			
B 199:6 bachelor's 31:18 36:23 back 31:10 55:12 63:16 72:22 89:23 91:17 97:24 104:11 122:23 123:12 129:5,9,18 149:14 149:19,23 157:8 191:9 212:11 215:11 216:22 222:5 background 30:17 33:14 42:19 43:7 bad 9:19 bare 40:9 barely 220:18 base 136:17 139:6 197:7 based 35:8 37:25 82:2 91:24 94:4 107:5 114:21 117:12 129:21 132:14,16 145:16 147:22 149:21 151:3 159:17 170:7 174:17 175:20 183:6 192:9 193:10 193:22 199:14 201:19 202:2 204:24 205:2			

127:22 140:9 173:7 176:7 blown 119:11 159:24 177:2 203:25 board 137:8,22 138:3,6,14 139:14,15,19 140:15,22 141:22 142:2,11,25 143:5 176:18 boards 137:23 140:18 boats 33:8 body 187:21 Boston 2:9 bottom 144:17 171:7 202:20 202:24 bought 29:25 30:4 box 153:16 boxes 170:13,22 break 7:17,19,24 67:23 68:8,11 122:20,23 123:19 191:8,11,13 215:5,14 breaker 116:19,23,24 117:2,5 117:10,17,20,21,23 118:2 119:17,23 120:2,7,12,14,15,18 171:25 172:6,13,15 breakers 118:4,6,11,25 121:3 brief 30:16,20 34:18 briefly 11:5 100:22 105:19	bring 36:3 107:24 112:4 151:21 173:4 brings 82:19 broad 193:2 broader 164:14 broke 123:23 broken 189:2 brother-in-law 217:3 brought 21:20 26:10 34:7,15 60:11 64:10 66:20 95:10 216:8 brown 135:18,18 building 40:2 41:19 46:10,18 63:13 102:21 105:16 115:15 117:15 149:19,22 184:7 186:4 188:13 193:13 198:15 216:10 building's 32:10 114:22,24 buildings's 104:24 builds 38:2 built 132:10 149:24 bulb 175:18 bullet 105:21 bulletin 189:21,24 190:13 bumped 120:9,22	burn 130:21 131:3 161:13 burned 130:18 159:24 177:19 200:14,15 201:4 202:21 213:5 213:9,10,13 burning 130:24 burnt 205:9 button 62:16 buying 69:20 <hr/> C <hr/> C 2:2 9:15 23:9 121:20 145:22 223:2 226:2 C/D 177:8 208:7,21 209:25 210:10 cable 40:9 cabled 38:19 cables 39:24 40:5,13 cabling 146:23 call 38:6 47:25 55:11,14 66:8 70:15,24 82:10 88:15 94:19 105:3,9 127:7 131:21 132:11 133:9 136:11 144:22 152:16 154:9 187:3 199:22 212:24 called 34:25 35:18 56:8 132:10 137:7,16 candle	60:9 63:8 215:20,22 217:18 218:2,7,11 218:14,17,21 candles 205:9 cans 126:6,10 207:17 208:19 210:13 211:4 cap 125:11 216:19,23 capable 179:12 196:2,6,7 capacitor 139:2 capacitors 135:19,20 capacity 62:23 caps 124:25 125:7 caption 104:18 captions 213:20,21 capture 8:22 career 37:3,5 Carol 1:4 5:12,15 carpet 129:24 130:19,25 133:13,14 177:18 carpeting 178:2 case 5:7 10:8,17 11:19,22 12:2 13:18,20 23:12 23:22 32:7 33:2 44:18 45:5 46:21 55:22 60:25 61:8,12 61:18,21 64:8,21 65:20 66:25 67:5 68:20 69:10 70:7
--	--	---	---

71:17 77:8,11 78:25 79:25 80:6 87:18,20 90:7,16,23 91:7,13 92:11 97:17 99:24 99:25 100:6,15 102:10,25 103:11 107:8 111:14 121:6 121:7 142:23 143:3 153:2 156:9 159:4 160:3 161:17 162:10 167:10,10 167:11 168:25 179:25 183:21 184:18,20,22,25 186:22 194:6,19 195:21 196:24 204:12,25 217:15 218:2 221:4 cases 58:22 59:2,12,15 60:21 63:2,7,12 215:17 216:25 casing 163:16 casinos 36:14 cat 219:2 catch 118:15 causation 53:24 109:17 cause 17:5 46:3,9,17,24 48:16 50:15 53:12 60:9 63:14 68:17 102:13 106:16 107:22 108:6,7 110:7 112:2,11,12 114:19 115:14,23 116:8 136:18,21 144:5 162:18 167:6 167:15,23 168:4,20 170:2 198:17 201:13 215:18,21	216:13 217:21 caused 13:20 15:5,11 17:25 96:8 97:10 114:12 115:10 116:7 126:13 causes 96:13 116:6 causing 17:15 ceiling 207:3,8 216:4 217:13 cell 7:15 42:21,24 43:7 62:15,15,17,19 75:11 82:12 92:24 94:11,13 95:6,10,19 95:23 96:4 101:18 101:20 127:8 171:6 177:14,19,24 178:9 178:21 207:16 208:22 209:13,22 210:13 211:15,24 cells 76:24 81:15,20 82:9 82:10,11,22 83:4 87:12 90:13 92:14 92:16,18,23 93:3,25 94:10 95:13 125:3 125:11,18,20,25 126:4,9,13,18,24 128:14,18,20,25 177:12 center 118:7 119:2 207:18 208:14,20 209:16 209:23 certain 96:17 137:13 148:18 188:15 certainly 19:13 42:12 220:7 certificate 32:22,24 certificates	31:22,24 32:5,18,20 63:25 certification 31:4 33:7 certified 31:2,2 certify 223:7 226:6,15 challenge 47:14 chance 20:12 79:13 110:21 221:11 change 23:11,21 219:5 channels 39:18,22 40:13 41:21 chapter 11:15,16 48:2,3,4,7 109:18,18 110:13 110:14 char 177:21 characteristics 38:12 92:21 94:4,15 95:12 96:3 characterization 88:16 characterize 37:24 166:10 charge 88:14 162:2 166:18 166:22 charger 90:14 124:6 150:5,7 150:13,19,22 151:4 151:17 156:10,15 156:18 157:12,12 158:12 159:12,23 160:7,9,14,17,18,19 161:8,12,18 162:3,6 162:15,20 174:9 charges 34:6 charging	88:18 Charles 1:5,6 5:15 charred 130:10 143:14 210:12 211:6 charring 178:2,4,7 210:8,10 210:16,20 211:17 212:7 charring/suggestive 211:22 chime 39:2 chip 137:8,21 138:3,5,7 138:14 139:5,9,14 139:15,19 140:15 140:18,22 141:22 176:17 chips 137:23 142:10 circle 139:21,21 155:9,20 circling 138:13 143:11 circuit 116:19,23,23 117:2,4 117:10,17,20,21,23 118:2,4,6 119:23 120:2,7,12,14,15 121:3 142:2,25 143:5 171:25 172:12 circular 154:15 circumstance 17:18 118:10 circumstances 21:17 61:18,21 107:23 112:3 188:19 cited 187:21 191:2 civil
--	--	---	--

1:8 33:25 claim 13:23 14:3,8 clarification 221:24 clarify 150:18 221:16 clarity 187:4,7 208:12 clear 107:10 129:14 153:21 170:20 clearly 186:25 193:18 client 66:21 186:20 Clio 56:8,15 close 158:25 185:5 closed 206:11 closely 58:6 141:20 closer 139:4 closest 145:24 closet 28:24 29:3 131:13,19 132:5,6,18,22 134:23 145:25 146:5,10 203:17,18 209:3,14,18 210:4 210:19 211:5 214:15 219:25 220:2,3 cloth-wrapped 39:4 cluttered 208:9 Co-Administrator 1:4,6 COB 137:8 141:9	COBs 140:20 141:5 code 36:4 40:23 41:17,22 41:25 42:5,8,11 149:22,25 codes 149:19 coding 139:23 collect 14:21 91:15 126:3 194:7 collected 15:24 16:6,9,10,14 74:15 91:4,9,18 104:15 126:9 127:15 130:23 131:12 133:7,25 134:5 139:12 172:5 194:9,11,14 208:5 220:4,9 collection 74:2,7 115:2,18 127:7 college 31:6,13 34:23,23 color 139:24 combination 82:9 149:14 combustible 209:8 212:19 combustibles 212:25 213:3 combustion 108:3 112:7 210:18 211:18,23 212:2,7 212:14 214:13 come 23:8 54:2 55:7 79:13 122:23 123:12 191:8 208:14 215:11 comes	184:24 comfortably 12:24 coming 160:17 177:22 200:16 comment 38:11 comments 187:6 commercial 35:24 37:11 COMMISSION 224:23 committed 18:17 communications 65:23 Community 31:13 company 13:12 19:10 34:25 35:7 54:16 66:18 76:7 compare 92:16 compared 93:3 94:22 199:24 comparing 94:2 comparison 94:19 95:10 compartment 163:8 164:17,19 166:8 169:20 206:11,23 207:2,10 competency 108:10 112:15 competent 108:14 112:19 179:15 complete 35:7 223:10 completely 195:2	compliance 36:4 component 97:5 136:5 141:17 components 74:24 101:14 129:23 137:2 165:25 207:16 209:13 comprehensive 88:9 comprises 184:6 computer 11:3,5 14:16,19,21 17:20 33:14 42:16 43:18 71:8 78:17 86:10 91:3 98:16 100:3,6 102:8 116:7 158:12 161:9,11 163:16,17 220:21 computers 13:16 43:12 61:5 89:23 concealed 40:20 41:3,20 concentric 148:15 concern 190:13 concerned 131:3 concerning 5:13,19 52:4,18 124:16 concerns 181:11 concisely 187:2 concluded 63:9,13 132:17 192:10 206:13 conclusion 85:5 113:20 115:21 170:17 183:15 conclusions
--	---	---	---

68:15 105:25 106:20 179:24 204:6 condition 73:25 90:18 91:25 118:12 144:16 148:20 182:7 conditions 35:9,10 107:23 112:4 conducted 71:24 73:6 180:20 conductors 189:18 confidence 65:19 configuration 85:20 86:4 confirm 92:21 93:15,18 101:11 conglomeration 147:24 148:3 152:12 173:25 conjunction 137:15 connected 32:15 38:25 39:5 124:5,9 162:8 connection 90:22 92:10 97:16 188:9 connections 188:14 consider 15:3,10 48:21 49:2 64:6 91:5 113:2 168:11 184:9,21 198:12,20 consideration 17:22 108:9 112:14 considered 40:19 90:15 168:16 183:25 184:11 198:14 201:12 consistencies	24:10,12 consistent 24:8,13,22 27:9 28:14,25 38:8 41:25 93:19,21 143:4 160:2,24 163:25 164:3 165:10,20,24 166:2 178:8 183:17 201:9 219:13 construct 190:20 construction 81:15 consultant 52:6 54:24 114:2,5 consulting 66:7 consumed 162:16 consumer 86:25 context 120:6 182:4 continually 93:11 continues 58:21 183:9 conversation 6:16,20 79:19 191:20 conversations 9:4 10:14 83:22 conversely 141:10 converter 156:20 conveyed 71:10 83:23 conveying 182:22 coordinators 55:12,13 copied 109:12 copy 8:7 49:20,24 50:7	152:4 copying 69:14,17 cord 144:20 158:18 corded 146:15,25 corner 171:7 177:8 207:19 208:7,21 209:25 210:10 Corps 30:22 correct 17:16 19:2,5 21:9,14 32:6 37:6,13,17 39:14 42:9,14 45:8 45:17 46:22 47:5,20 47:21 48:10,14 52:24 56:17,21 57:19 58:9 61:7,11 62:9 63:15 74:8,17 77:9 78:4 79:2 83:8 84:13 90:20 91:8 92:4 94:7 95:14 96:5,15,24 97:8,18 100:12 102:4,23 104:20 105:18 106:14 107:9,15 109:19,20 110:3,15 110:18 113:9,14 114:6 115:12,22 116:4 119:13 120:20 121:12,24 122:3,12 124:7,12 125:9,13 132:20 133:2,3 134:19 138:4 142:13 143:13 144:2,6 146:16,20 147:18 148:12 150:15 151:9 155:22 159:7 159:14 161:16 162:19,24 163:11 165:3,23 167:4,25	169:17 172:7,11,18 172:21 173:20 177:5 178:6,19 179:3,9 180:8,16,21 181:3,9 182:18,19 183:2,8,19 186:2 190:18 191:21 192:14 202:17,25 203:9,22 205:7,23 212:8 215:24 217:16 219:14 223:11 CORRECTIONS 224:2 correctly 85:15 182:20 215:20 corresponded 96:2 cost 35:6 couch 199:12,13,19,24 200:7,10,24 201:5 201:10 202:19,19 206:2 218:15 couches 199:20 COUGHLIN 2:8 counsel 83:24 counterfeit 79:3,21,22 80:10,20 COUNTY 223:4 couple 126:6 coupled 32:8 course 59:18 182:3 189:11 190:4 213:23 courses 195:8 court
--	---	--	--

4:20 5:8 45:12 118:17 covered 217:4 cracking 135:24 crawl 40:7 create 11:24 12:10 21:22 213:22 created 11:25 12:14,14 21:13 193:21 creation 21:17 credible 27:19,25 criminal 34:5 critical 101:14 Cs 215:25 CT 77:6,7 86:17 220:25 curious 18:21 current 36:4 48:6 58:11,11 currently 95:16 cut 111:8 133:13 CV 6:5 57:9,11,14,17 58:5,7,8 63:16 64:9	141:8 143:2,4,25 145:7 157:13 158:18 160:7,23 161:2 162:5 163:7 163:20,25 164:6,12 164:12 165:9,18 166:7,8,10,11 167:8 167:17,24 168:9 169:20 171:13,18 175:19 192:8 195:5 195:6 199:14,18 201:6,9 202:23 209:7 210:6,16 220:19 damaged 17:14 75:3 137:21 156:16,25 159:23 161:21,22 176:6 199:8,10,16 data 168:10 169:6 181:21 182:17,25 184:23 date 19:9 49:15 51:17 58:12 64:15 81:18 180:6,10,11,23 dated 49:11 50:20 51:9,13 225:13 datedOctober 225:11 dates 18:6,16,17,21 Daubert 47:14 David 29:14 day 76:2 192:10 194:13 209:6 223:20 224:20 days 73:13,15 deals 33:18	dealt 93:23 debris 95:24 127:8 129:15 131:11,19 133:7,14 133:23 134:3 165:17 209:10,12 211:5,6 220:3,12 decay 213:8,12 deceased 1:5,6 162:12 December 51:9,13 52:10 71:14 89:23 225:13 declaration 206:6 deems 66:21 default 193:21 defective 13:19 Defendants 1:11 2:8 5:6 defer 18:18 97:12 98:21 99:8 100:8,10 101:22 102:19 128:23 130:5,12 164:9,21 167:18 170:3 177:17 178:13 212:3 deferring 99:21 defined 104:9 107:22 112:3 193:11,19 194:6 definitely 210:12 211:2,9 214:8 definition 78:14 79:6,18 definitive 71:9 120:6 deforming	163:15 degraded 139:18 degree 17:9 31:14,18 32:8,9 32:12 34:24 35:16 37:3 42:24 43:5 degrees 130:24 211:22 213:8 213:12 delineation 45:25 department 26:17,19 102:25 103:6,9 117:5,6,7 117:13 131:18,25 departments 117:7,9 dependent 142:23 167:9 depending 137:2 depict 147:11 163:7,15 depicted 157:13 165:8 172:9 176:16,21 178:5 depicts 121:19 147:15 Deponent 224:18 deposed 5:23 6:3,5 18:3,23 58:23 deposition 3:16 7:17 8:12 9:3 10:23 12:23 18:9,14 19:20 20:24 24:6 25:21,25 26:18,22 27:16 28:17 58:17 60:7 83:16 85:9,12 145:23 148:19 162:11 219:11,24 223:9,13 depositions
<hr/> D <hr/>			
D 4:2 223:2 damage 17:9 41:12 127:13,13 134:14,16 135:25 138:2 140:3,17			

22:3 60:17 63:23	188:3	54:18	127:15 172:5
deposits	device	disclosure	documents
175:7	115:4 145:17,19	58:12	8:6,10 10:22 13:3
describe	146:14,15 148:17	discovered	27:3,8 56:4,15,19
24:13 89:11 101:21	199:3	27:10 91:23	72:8 84:15 85:3
131:25 151:16	devices	discovery	100:19
189:2	7:16 195:25 196:4	176:2	dog
described	diagram	discuss	215:20
53:14	12:14 127:5,16,23	102:15 203:3	doing
describing	128:10,15 129:8	discussed	8:17 35:23 42:25,25
156:6	130:3,21 189:6	30:8 185:9,12,15	69:9 76:21 197:3
DESCRIPTION	207:14,21 208:2,8,9	196:21 200:19	domain
225:9	dial	210:11	102:21
design	45:18	discusses	dome
33:15 35:24 36:7,11	diameter	171:24	143:7,7
37:10 42:19,20,22	96:3	discussing	doorbell
42:24 47:7	difference	98:10	39:2
designed	80:23 82:8 156:5	discussion	dot
47:8 136:13,16	differences	114:18 116:18	142:4
160:10	81:14	171:22	doubt
designing	different	disease	110:24
36:16 38:2	25:4,10 31:24 67:14	36:6	Dr
details	82:12 100:23	disintegrate	9:21,25 30:10 80:17
10:16	110:13 118:5,6	220:17	81:6 97:2,13 98:21
detectors	124:24 125:3	displayed	99:19,25 100:4
147:16,20,25 148:4	136:15 142:22	13:3	101:22 102:15,19
149:12,20	168:3 169:2 194:11	disposition	105:22,24 106:17
determination	direct	184:18	116:13 125:17
146:6 147:8 185:2	109:15 121:13	distinction	167:18 170:4
202:5,6,15 216:15	directly	45:20 80:9,18 169:11	177:17
217:17	55:10 117:15 121:15	171:13	drafting
determine	162:15,21 199:25	distinguishes	205:20
35:6 100:24 108:6,12	disagree	189:22,25	draw
112:11,17 115:24	202:4,5	distribution	152:22 153:5 155:8
116:5 117:25	disassemble	36:8 61:2 200:20	171:18
148:23	75:5,8,9	DISTRICT	drawing
determined	discharge	1:2,2	155:20 170:17
60:12 114:18 115:14	88:15	document	171:12
146:25 162:6	discharging	49:7 50:14,17,19	drawings
203:20	88:18,19	108:23 111:7,10	35:6
Determining	discipline	documentation	drawn
108:6 112:11	186:17	9:9,18 56:10 73:23	154:7 156:12 173:19
developing	disclosed	78:24 147:9	drill
206:10	84:11	documented	40:24 161:23 169:10
development	discloses	74:25 116:24 126:11	drilled

194:17 dripping 163:22 driver 137:10 drywall 41:10 due 48:4 120:10 121:4 136:22 162:4 duly 4:6 226:10 Duracell 149:11 dust 217:4 duties 190:4 duty 30:23 33:22 34:21 DV6 70:8,12 90:17 92:2 98:18 100:14 dynamics 46:5	72:12 East 2:5 easy 34:25 eat 123:7 edition 48:6,9 106:13 edits 187:6 educational 30:17,19 effect 3:19 effectively 121:4 effort 7:8 17:6 efforts 92:9 131:21 eight 124:14 129:19 131:5 131:7,10 133:4,17 133:21 134:12 141:13 either 35:8 63:20 82:17 118:18 121:9 132:8 135:12 140:4 172:20 203:8 211:6 ejecta 211:15,25 elaborate 193:3 electric 35:2 38:23 52:5 170:5 199:11,13 204:11 electrical 11:17 12:3 31:11,18 32:9,11,12 33:6 35:19,22 36:7,9,24 37:10,24 39:23 45:16,22 46:9,17	52:4,19 53:23,24 54:4,19 55:6 60:8 60:11 63:13 89:13 89:13 102:22 104:14,16,21,24 105:14,16 107:7,11 110:12 114:4,20,23 114:24 115:16,16 120:10,24 121:11 134:5 135:2 157:10 157:22 158:4,10,15 159:21 161:22 165:2,25 166:13,16 166:23 167:3 168:13 170:9 184:8 184:12 185:15 188:4,14 189:18 190:5 194:3 195:7 198:15 200:23 201:8,21,25 204:18 207:9 215:18 216:7 216:10 221:10 electrically 32:15 36:20 115:3 116:3 165:24 196:10 200:17 201:11 electrician 31:7 32:8 electrician's 34:24 electricity 107:13 electrode 208:19 209:22 electrodes 207:18 electronic 7:16 86:25 89:14 electronics 141:11 200:22 eliminate 104:4,5 107:2 116:3 135:10 144:4 161:5 169:25 170:7	175:17 192:16,22 194:22 eliminated 114:10 134:18 144:8 150:8,21 216:11 employee 54:22,25 employees 186:16 employment 34:16 enclosure 75:15 encountered 199:5 ends 156:19 energy 36:13 135:2,7 166:16 167:2 engage 54:2 engaged 19:7 46:12,21 59:3 66:12,16,17 204:17 engagement 45:6 97:7 engages 54:17,20 engaging 55:3,9 engineer 33:10,12 47:11 engineering 31:12,15,19 32:9,12 35:5,16,17 36:24 186:14,16 engineers 89:13,14 entering 199:5 entire 36:19 37:2 98:15 142:2 143:5 156:18 entitled
<hr/>			
E			
<hr/>			
E 1:5,6 2:2,2 4:2,2 89:8 223:2,2,2 226:2,2 E5 30:24 earlier 53:15 58:24 60:19 124:8 201:6 207:15 210:11 214:10 218:15 219:9 early 11:4 77:6 127:12 197:12 ease 70:10 easier 109:4 easily			

68:15 Equally 7:6 ERRATA 224:2 especially 174:3 ESQ 2:6,10 essentially 39:7 105:2 132:7 133:8 Estate 1:4,6 estimate 35:6 estimation 35:4 evaluate 32:10 36:2 44:17 54:3 60:11 91:9 195:4 evaluated 183:22 evaluating 168:11 195:7 evaluation 32:16 46:14,16 53:22 54:18 114:22 188:13 194:8,12 event 120:10,24 121:11 125:23 136:21,23 141:16 156:17 157:10,23 158:5,11 158:15 161:23 166:19 175:23 eventually 83:17 everyday 189:11 evidence 14:22 27:10,22,22 44:24 46:13 74:14 82:2,7 114:25	115:17,19 121:6 127:23 134:2 141:14 151:10,14 168:16 169:6,7 171:24 181:12,18 182:9,15,22,23 183:4,7 185:6,14,18 185:23 188:8 191:17 192:18,24 194:15,24 198:9 210:17 211:2,17 220:9 exact 157:5 197:11 exactly 41:18 90:11 159:16 213:14 exam 10:18 19:4 73:20 75:23 77:16,25 78:2 84:17,18 91:12 94:25 95:4,9 103:13 103:21 examination 1:17 5:2 19:12 22:19 26:21 27:11 42:13 73:21 74:4,5,10,12 74:13 76:11 77:20 81:19,25 84:21,24 85:2,4 92:14 151:16 225:4 226:9,11 examinations 73:4 examine 73:11 examined 4:8 73:2 93:2 148:10 221:2 examining 94:5 119:25 example 45:3 56:2 142:6 155:17 188:22 exams 75:18,20	excavated 75:10 76:24 92:15 93:3,25 94:10,13 95:12 171:8 excavating 209:2 excavation 208:3 exception 221:22 excerpt 182:4 exclude 150:13 excluded 151:5 exclusive 159:12 excuse 131:6 133:3 exemplar 78:23 89:25 90:4,5 90:15 91:6,22 92:2 92:9 exemplars 90:21 exercise 172:24 exhaustive 11:10 exhibit 49:7,13 51:5,8,15 52:14,23 53:2 67:9 67:11 127:21 140:4 Exhibits 57:2 225:8,9 existing 35:10 expand 53:16 187:12 189:22 221:16 expansive 154:11 expect 125:6 142:15 152:20	156:15,24 157:11 158:6,18 159:22 160:6,20 161:15 168:2,14 169:3 174:16 175:11 176:25 177:12 202:23 220:11,19 expectation 168:15 169:4 expenses 57:4 69:8,9,11,12,13 69:16 experience 38:2 64:10 94:5 100:11 102:2 expert 1:18 4:3 44:4,8,13,15 45:11,15,20,22 46:3 46:24 47:7 53:12 59:11 99:8 100:9 101:25 183:3 193:13,14 202:3 216:12 expertise 110:2 111:13 204:19 experts 21:20 193:13 201:13 EXPIRES 224:24 explain 143:16 148:4 187:14 explained 76:23 175:13 186:25 191:15 explanation 188:22 explode 161:13 explosion 48:23 49:4 108:3 112:8 exposure 163:9 164:2 165:11 165:21,23 166:3 169:21
---	---	--	---

extension 132:2 144:20	159:12,17,20 162:7 169:14 170:16 176:25	Faraci 2:4 67:4	28:13 50:10 101:10 126:6 220:11,19
extensive 193:20,22	failure 59:24 60:3,24 78:11 78:16 96:8,13 97:10 102:7,18,20 104:16 104:21 107:2,12 114:10,13 115:24 125:22 135:7,12,14 135:21 136:20,24 140:5,12,14,15 141:9 159:9,21 160:2,4 161:4 169:16 196:3,9,10 198:17	features 98:4,20,25 99:20 100:7	finding 189:4
extent-type 39:8		February 73:12,19 75:17 76:10 77:2,21,22,24 84:17 94:25 95:4	findings 67:13,14 68:17
extra 7:13		Federal 2:9 3:2 4:23	fine 49:25 50:7 80:7,8 105:7 129:21 153:17
F		felt 20:20	finish 6:24 181:23
F 125:10,20,25 126:13 126:19,25 127:2,5 127:17 128:6,9,14 128:20,25 130:9,17 226:2		field 43:2	finished 7:11
FAA 30:25	failures 32:14 136:8	figure 94:9 97:10 101:5 113:21 121:14,19 124:4 125:10 127:22 129:19 130:17 131:6,10 133:2,4,17,21 134:9 134:12 139:11 140:9 141:13,21 142:12 145:11,12 147:15,20 150:4 151:21 155:16 163:3 165:8 166:5 170:23 172:9,23 177:6,7,22 213:16	finishing 7:9
face 152:15,16 153:7,14 153:24 154:10 155:7 156:3,7 176:14	fair 12:12 19:14 42:10 44:7 45:7 46:23 61:5 63:6,11 65:16 68:18 74:3 83:7 92:3 96:4 101:25 102:17 107:14 113:8 115:9 132:19 138:6 150:14 155:6 190:17 191:2 202:7 203:6 205:21 207:14 210:18	file 9:15 55:21 56:7 64:15 185:5 216:14	fire 5:13,20 13:20 15:5 15:12 17:5,14,15,25 20:25 26:17,19 27:18 28:17 43:2 45:11,15,17,21,23 46:4,5,6,7 48:16,23 49:4 53:11,20 54:8 54:11 61:19,20 62:2 62:5 63:14 75:2 85:19 86:3 92:8 93:9 102:13,24 103:3,6,9,16 104:18 107:22 108:2,6 112:2,7,11 113:3 114:12,19 115:15 115:23 117:5,6,6,7 117:9,13,16 122:9 122:11,14 126:13 126:19 127:2 128:19,22 129:2 130:2,7,15 131:13 131:18,18,22,24,25 132:4,4,8,11,12,19 161:21 162:5,16 163:9,10 164:2,25 165:11,20,22 166:3 167:6,6 168:12 169:2,21 172:16
facility 36:19 43:19,22		filed 5:12	
facing 163:19		filing 3:6	
fact 82:16 151:17 205:11 207:7,9		filled 164:20	
factor 60:13	fairly 155:8	filtering 139:2	
factors 44:4,9	familiar 13:11 44:5 71:17 78:7 88:4,22 101:17 107:19 196:16	final 8:8 186:19	
facts 10:17 183:17	familiarity 6:10,13 89:17	find 24:4 27:7,14,18,24	
factual 162:22	fan 59:25 216:4 217:13		
fail 106:5,7 116:7 135:3 161:11	far 8:18 28:22 43:5 74:15 128:22 131:2 170:5 178:14 185:24 189:8		
failed 97:5 141:17 142:14 142:18 150:11,19 150:22 151:3 159:5			

175:23,25 176:5 177:15 178:12,14 178:18 179:11 184:17 186:8 189:11,19 190:2,6 192:8,21 193:16 197:4,19 198:17 201:19 202:20 204:2,7,22 206:10 206:23 211:2,8 213:6 215:19,22 218:4,11 220:16,18 221:8,9 fire's 17:10 firefighter 120:9 firefighters 121:10 fires 188:4,6 198:25 199:21,22 200:2 firm 9:6 65:25 67:4 76:3 firmed 85:10,13 firms 61:13 first 5:17 18:10,13 19:17 26:21 32:4 34:23 50:20 54:6,8,12 73:24 108:5,11,15 112:10,16,20 113:3 113:7,23 115:7,8,11 127:14 132:21 134:11,22 171:23 178:21 179:2 181:25 182:6 188:3 199:4 215:16 five 6:6 29:25 30:23 59:19 65:3 67:21 72:8 76:20 82:11 93:8 97:19 121:14	121:19 124:19 127:20,22 187:20 190:9,23 five-minute 67:23 flame 196:13,18 210:22,23 211:11,12,25 212:6 flame-type 211:18 flammability 179:5 flashlight 95:16 140:23 flat 154:2,17,23 flight 31:3 flip 72:4 149:6 floor 141:2 160:22,22 209:8 210:3,6,9 focus 26:14 focused 27:21 folded 144:15 follow-up 22:20 following 186:16 follows 4:8 force 3:19 47:25 48:2 foreground 138:8 147:3 forensic 52:5 114:4 189:17 190:12 forensic-based 114:3 forensically	134:17 144:4 150:8 175:17 forget 9:19 207:23 form 3:12 15:14 23:6,14 25:8 30:14 63:4 99:5 157:16 202:13 206:14,21 210:16 formal 43:4 63:3 formulating 25:3 32:21 forth 56:20 67:12 68:17,23 226:10 forward 79:10 184:24 found 12:17,18 181:18 182:22 190:16 197:14 208:7 209:9 209:16 211:15 219:12 four 62:20 116:19,24 117:21,23 119:23 137:12 172:15 190:9,22 four- 133:11 FPU 61:3 200:20 frame 197:13 framing 40:17 frayed 146:23 147:2 front 28:8 50:13,17,22 123:24 FRT 19:9 22:9,14 36:25 37:4 50:15 54:21,25	66:12,17 185:8,20 FRT's 204:24 fuel 17:19 107:24 108:5 108:11,15 112:5,10 112:16,20 113:3,7 115:7,8,11 164:20 164:22,24 179:11 fuels 178:22 179:2 full 29:12,14 38:24 113:23 124:3 179:17 full-time 37:5 fully 41:20 75:5,8 213:9 furnace 203:3,11,15,24 204:7 206:3 furniture 61:2 199:22 200:19 further 3:10,15 22:20 84:10 84:14 102:16 120:11,13 160:22 189:21,24 226:15 Furthermore 143:6 fused 129:24 future 194:12 <hr/> G <hr/> G 4:2 223:2 game 36:14 gas 164:6 176:20 203:2 204:7 206:13,22 210:21
--	--	--	---

gasses 136:25	53:20 55:10,16 75:12 82:24 97:24	government-issued 4:5	134:3 165:5 203:17 220:3
general 46:7 53:18 73:23 106:18 114:17 194:17 195:18,23	104:11 111:16 114:8,15 116:15 117:9 125:14 129:5 129:9 152:15	graduated 30:21 31:5,7,12,17 36:23	hand 6:25 93:4,6 94:10
generality 157:8	153:11,25 154:16 156:19 168:22	greater 65:15	Handbook 78:8
generally 10:13 16:19 33:4,5 37:10 41:24 42:4 45:21 49:3 61:24 70:20 88:10,13 99:17 103:19 105:23 179:10 194:20	173:21 175:12 183:23 184:3 205:25 215:8	green 138:7,15 147:3	handle 119:18 120:18
generated 84:16	goal 6:14	ground 13:23 153:24 174:16	handled 110:11
generator 36:2 59:22,23	goes 54:6 58:4 167:15,20 184:22	group 47:25 48:5	happen 161:15
getting 11:9 37:3 83:20 159:2 161:24 208:9	going 6:11 14:18 39:11 41:11 49:6 51:2,7 51:21 52:13 57:8,24 58:2 63:16 65:10 67:21 70:20 72:3,11 72:22 79:10 101:20 102:18 104:11 105:9 107:17 108:22 110:20 111:7 113:10 119:9 121:13 122:18 127:21 129:6,7 132:5 143:23 145:9 148:16 150:3 152:21 153:15 154:16,18 160:15 160:16 161:11,13 162:25 167:7,11 171:21 175:8 186:19 187:17 195:9 199:19 215:4 218:6	growing 93:12	happens 144:24
giant 140:25		guard 40:4	hard 149:13 153:15 175:2
give 30:16 34:17 71:8 72:10 75:24 76:3 79:7 89:10 106:18 111:23 114:17 119:21 120:3,6		guess 24:17 32:23 38:11 48:2 53:17 73:16 78:12 80:18 84:3 85:8,9 94:16 102:11 138:5,10 147:10,12 157:18 164:21 167:13 193:2 195:11,15 214:5	hardware 90:12
given 20:12 63:24 191:16 223:14 226:12		guide 48:22 49:3	hasty 37:19
gives 135:9 139:24 167:2 169:7		gut 36:18	head 8:21 18:7 24:3 27:6 27:13 29:9 61:16 62:24 86:21 87:4 88:3,14 101:16 160:12 206:24
giving 7:7 8:19 63:3		gutting 37:8	header 71:23 72:7
glean 75:3 91:20	good 60:6 68:6 75:4 122:22 123:4,15 131:2 187:9 191:7	guys 68:4 93:23 123:5	heads 129:16
glowing 197:24			heard 88:23 89:5 108:17 204:3,4 205:10
go 39:3 41:6 52:16	govern 86:25 87:24		heat 121:4 145:7 161:2 195:25 196:2,7,8,12 196:18 206:22
		H 129:13,16,21 130:3,8 130:9,17	heat-producing 199:3
		half 8:3 133:12 171:23	heated 132:22 133:19 134:10 143:19 155:15 156:7
		hall 132:22 133:7	heating 137:20
		hallway 131:12,20 133:22	

heaviest 166:8	82:10,11 141:14 176:22 177:2,3	83:5 85:19 86:4 91:6 92:7 93:18,20 94:18 95:10,17,19 106:24 114:11,13 150:10,25 159:4 169:12 201:15	107:24 108:4,7,10,13 108:14 112:5,9,12 112:15,18,19 115:10 168:13 170:5,10 178:8 179:7,13,15 181:7 181:12,18,19 182:10,15,23 183:5 183:14,16,25 184:5 184:10,12,15 192:17,22 194:3,5 195:8 198:13 199:12 203:7 204:11,18 205:5 209:7
heavily 75:2 176:5	holes 40:24 41:7 124:19,19	HP's 186:7 193:13	illustrative 151:13
held 1:19 34:19,20	Hollowell 1:5,6 5:15 186:6 197:14	HRC 188:10,17	Ilysa 1:21 226:4,21
help 141:3,9 147:7 148:22 188:18 212:10 214:2 221:16	HOLLOWELL-M... 1:5 5:13	human 44:4,8	image 143:18 173:6
helped 48:7	home 4:16 38:7 39:7 76:7,8	hypotheses 14:13 183:13 196:5 221:4	impacted 117:15
helpful 31:20 140:6 143:17 146:7 171:20 190:21 200:3	honors 31:8	hypothesis 108:8 112:13	impacts 121:5
helping 171:17 217:3	hopefully 116:9	hypothesized 179:13	implicated 62:2,4
helps 32:13,15	hoping 114:17	<hr/> I <hr/>	importance 64:6
hereinbefore 226:10	hospitals 36:5	ID 51:22	important 7:13
high 30:18,21 142:8 166:23 174:17 188:8	hot 136:24 164:5 206:13	idea 64:17	importantly 166:11
higher 135:25	hour 8:3,3 64:24 67:21 122:18 215:10	identification 4:5 49:14 51:16 108:4 112:9	impose 182:7
highest 30:18	hourly 54:21	identified 12:4,8 17:5 51:3 145:13 184:15	inaccurate 63:20
highlighted 153:10	hours 64:21 65:3,6,9,12,20	identifiers 74:22	incident 30:12 105:8,8 121:23
highly 167:24	house 29:25 30:4 37:15 38:22 40:2,6 41:24 70:24 140:24 191:24 192:13 193:17 197:3 198:5 198:11,16 199:6,8 203:15 205:9 217:2 219:2 220:16 221:10	identify 75:13 92:24 96:12 159:8 220:20	Incidental 69:13
hired 15:15	housing 153:12	identifying 93:16	incinerated 214:20
history 14:16 15:2,9,23 16:2 16:7,16,18 34:17	HP 1:10 5:7 13:11,14,19 14:16 16:21,23 70:8 76:5,15 79:25 80:2 80:22 81:3 82:20,23	IEEE 89:6,9,16,20	include 90:12 107:3,11 108:8
hits 55:15		ignited 108:11,15 112:16,20 178:21 179:12 214:15	
hold 6:25 44:7,14 45:14 97:22		ignition	
hole			

112:13 114:14 160:5 208:5,11,12 211:5 214:5 included 208:11 including 150:11 151:2 159:5 159:11 165:7,16 169:13 inconsistencies 27:4 28:22 29:2 inconsistency 219:18,21 inconsistent 24:14,22 163:9 169:21 211:19 incorrect 63:21 increase 188:16 incur 57:4 69:9 INDEX 225:2,8 indicate 7:3 82:12 125:2 137:3 141:9,15 154:20 156:13 indicated 87:19,22 154:6 indicating 138:24 142:5 146:2 153:8 154:9 indication 17:10 indicator 118:8 individual 120:18 individually 1:4 individuals 30:7 76:13 industrial 35:24	industry 106:7 infectious 36:6 infer 183:6 215:21 inferences 183:12 inferred 181:20 182:17,24 information 10:20 12:15 15:24 16:5,8,14,25 21:19 38:17 55:19 56:13 75:4 82:24 87:15 93:13,17 103:14 119:3,21,22 122:16 135:10 180:6,10,12 180:22 181:2 208:10 219:4 infrastructure 36:17 inhabitants 197:3 198:5 initial 22:11 26:20 53:21 54:17 70:5 77:18 84:16,21 132:13 208:10 initially 66:15 81:23 inside 137:3 146:5 205:21 inspect 87:16 144:14 inspected 74:21 115:2,18 126:8 inspecting 190:5 inspection 81:3 145:17 220:4 inspector 40:2 41:19 installation 38:21	instance 35:25 40:8 54:7 66:13 104:23 189:13 198:22 instances 188:12,15 Institute 31:16 insulator 40:5 insurance 76:7 186:5 insured 162:12 201:14 insurer's 193:14 intact 136:9 161:19 176:5 199:24 200:13 intended 160:11 interactions 54:10 interested 226:18 internal 120:5 125:22 129:23 161:4 Internet 101:8 interrupt 157:25 interview 19:24 20:2 147:23 interviewed 21:22 interviews 20:20 28:5 inverted 136:17 investigate 203:11 investigated 199:21 investigation	15:21 16:4 27:21 43:2 44:19 45:9,12 45:15,17,21,23 47:2 48:17,24 49:4 53:21 54:5 55:5 77:18 84:2,4,10,11,15 93:14 96:11 98:23 103:17 110:8 126:15 184:13,17 185:16 189:17 190:12 192:21 194:19 197:17 216:8 220:14,24 221:9 investigations 93:10 97:16 195:25 investigative 195:19 investigator 66:19 103:4,11,12,20 107:21 108:12 111:25 112:17 120:23 131:17 203:24 216:14 217:22 investigators 121:10 132:15,17 involved 33:25 59:15,22,25 60:8,23,25 61:5,10 61:14 66:4 82:21 103:18 107:13 189:19 199:20,22 200:2,22 212:13 involvement 66:23 involving 183:14 inward 199:9 irrelevant 23:15 207:11 issue 54:19 55:6 70:7 113:7 115:7 162:7
--	---	--	--

201:8 issued 58:18 issues 22:23 136:18 162:10 item 114:9 127:6 129:13 129:16 132:21 133:23,24 134:4,8 145:12 171:17,24 198:15 207:22,22 208:13 items 104:15 127:14 129:15 134:5 165:5 165:6,8,10,15 185:7 185:14,15,18 186:3 200:23 207:20,24 208:4 216:7,9	18:4,4,14 <hr/> K <hr/> K 223:2 Kaitlyn 186:13 Karasinski 9:15 10:9,11,18 20:2 20:19 22:16 23:9 28:4 30:10 46:2 47:3 51:9,12 53:3,8 53:9,10,18,25 54:7 56:3,16 66:5,15,20 75:19 106:22 128:23 130:6,13 164:22 178:14 186:18 193:12 196:15 201:13,20 202:9 203:13,21 204:15 205:15 206:12,16 207:5 212:4 214:18 225:13 Karasinski's 9:24 52:17 67:10 106:16,19 109:25 110:10 111:12 113:5 164:9 190:10 202:6 205:3 214:25 keep 8:19 keyboard 163:19 kind 34:9,15 37:20 54:13 57:18 62:10,13,14 64:9 102:5 103:13 133:10 135:5,21 137:5 146:23 147:2 148:25 160:2 165:11,20 167:17 169:10 172:23 175:15 189:20 Kirk's	49:2 179:22 kitchen 199:4 Klana 186:17 knew 92:18 knocked 215:22 know 7:10 13:8 14:15 16:18 17:23 18:5,6 18:23 19:9,10 20:5 20:7 21:16 22:13,20 22:22 23:2 24:21 30:5 32:13 37:14,18 39:21 40:12 41:9 44:10 47:15,17 48:19 57:24 58:10 59:2 62:10 63:25 64:14,20 65:13 66:7 66:11 69:18 71:5 78:13 79:5 82:18 84:23 86:18,24 87:4 87:11,14,17,23 88:2 88:10,21 89:18,20 89:25 91:11 92:5 93:7 94:3 98:2 101:13 104:8 106:12 117:2,20,24 118:10,24 122:4,6,8 128:24 145:15 149:18 152:24 154:20 159:16,25 160:14 166:17,19 178:20 185:11,24 187:11 194:25 195:2 196:12,17 203:14,23 204:4 205:8 206:6,18,21 211:7 212:5 214:19 217:8 218:22,25 220:5,7,8 knowledge 79:11 86:8 93:10	175:21 known 93:20 179:20 183:17 knows 30:11 160:16 <hr/> L <hr/> L 4:2 223:2 lab 77:25 labeled 207:23 labels 74:24 101:3 laboratory 77:19 81:25 84:18 86:23 93:5 124:17 lack 199:23 lamp 132:23 133:5,19,22 134:6,9,12,13 135:4 135:15 136:9 137:4 137:25 139:6,12 143:24 lamps 135:12 136:14,16 137:9 138:9 140:20 144:9 175:15 landed 128:25 Lane 4:18 29:21,24 Lange 2:4 67:4 laptop 29:5 74:22 81:3 91:3 104:6 105:2,7,8 114:11,13,19 115:10,14 121:21 124:4 160:4,15,16 163:7 164:6,12 165:16,22 166:6 168:5,8 169:25
---	---	--	---

170:10 171:16 184:7 220:2 laptop's 163:8 large 174:22 larger 174:10 law 61:13 65:25 lawsuit 5:11,19 33:25 lawsuits 17:24 34:9 layer 164:6 206:13,22 laymen 39:25 130:8 193:5 layout 36:12 90:12 learn 43:3 83:18 learned 42:23 leave 129:6 LED 132:23 133:5,18,21 134:12 137:10,15 175:15 LEDs 136:15 left 31:6 91:16 119:15 128:10 141:21 149:4,7 163:13 173:16 174:10 177:22 left-hand 170:23 171:7 legal 1:24 79:17 let's 68:2 73:16 152:22 191:8 215:11	letters 207:23 level 30:18 157:8 160:23 162:5 174:17 175:3 209:9 210:6 Levites 2:10 4:24 5:3,6 25:19 49:18 67:25 98:8,17 99:15 103:5 109:12 109:20 110:4 111:4 113:14 122:21 123:10 150:23 158:23 170:25 191:6 209:15 215:3 222:2 225:5 license 33:12 licenses 31:21,23 63:25 light 134:22 137:17 139:7 139:23 140:21 141:6 180:5 212:25 213:3 lightened 151:23 lightening 184:8 lights 175:20 liked 20:11 likelihood 188:16 limit 127:13 202:2 limitations 151:12 179:6 limited 42:24 154:22 193:24 210:11 214:12 Linden's 78:8 line	45:25 113:25 lines 41:14 Linzer 1:21 5:9 118:23 226:4,21 list 11:10 58:20 71:22 72:13 184:4 196:4 listed 64:11 72:8,19 86:19 87:13 180:13 184:2 186:10 187:19,25 Listening 93:22 literally 94:9 lithium 101:24 166:25 lithium-ion 43:14 60:24 61:10,25 62:11 87:24 89:4 101:14 102:3 little 34:14 45:19 50:2 53:15 57:25 60:4 62:16 63:17 128:2 138:23 139:4,11,19 142:4,22 151:24 152:6 164:8 174:15 174:19,20 176:13 176:15 187:13 189:7 195:14 214:4 Litzinger 1:18 4:13 5:1,5,24 6:1 7:1 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1,17 24:1 25:1 26:1 27:1 28:1 29:1 29:13,15 30:1 31:1 32:1 33:1,20 34:1 35:1 36:1 37:1 38:1 39:1 40:1,10 41:1	42:1 43:1 44:1 45:1 46:1 47:1 48:1 49:1 49:11,13,24 50:1,16 50:25 51:1,14,19,24 52:1,6,20 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1,10 69:1 70:1 71:1 72:1,17 73:1 74:1 75:1 76:1 77:1 78:1 79:1 80:1 81:1 82:1 83:1 84:1 85:1 86:1 87:1 88:1 89:1 90:1 91:1 92:1 93:1 94:1 95:1 96:1 97:1 98:1 99:1 100:1 101:1 102:1 103:1 104:1 105:1 106:1 107:1 108:1 109:1 110:1,11,16 111:1,17 112:1 113:1,18 114:1 115:1 116:1 117:1 118:1,21 119:1,4 120:1 121:1 122:1 123:1,22 124:1 125:1 126:1 127:1 128:1 129:1 130:1 131:1 132:1 133:1 134:1 135:1 136:1 137:1 138:1 139:1 140:1 141:1 142:1 143:1 144:1 145:1 146:1 147:1 148:1 149:1 150:1 151:1,8 152:1 153:1 154:1 155:1 156:1 157:1 158:1 159:1,3 160:1 161:1 162:1 163:1,4 164:1 165:1 166:1 167:1 168:1 169:1 170:1 171:1 172:1 173:1 174:1 175:1 176:1 177:1 178:1
---	---	--	--

179:1 180:1 181:1 182:1 183:1 184:1 185:1 186:1 187:1 188:1 189:1 190:1 191:1 192:1 193:1 194:1 195:1 196:1 197:1 198:1 199:1 200:1,9 201:1 202:1 203:1 204:1 205:1 206:1 207:1 208:1 209:1 210:1 211:1 212:1 213:1 214:1 215:1 216:1 217:1 218:1 219:1 220:1 221:1 222:1,15 223:6,17 225:5,9,11 226:8 Litzinger's 111:15 live 38:22 living 192:11 LLP 2:4,8 Ln 224:3 local 103:8,11,12,20 117:5 120:22 121:9,10 131:17 132:15,16 197:17 203:23 localized 137:20 140:14,17 141:8 143:2 166:10 166:11 167:7,17,24 168:9 locate 90:10 100:16 located 28:23 127:5 160:24 189:14 200:23 location 73:25 126:25 174:18 176:10	locations 127:24 130:22 Lockheed 36:15 37:9 log 185:23 logically 181:20 182:17,24 183:6 logo 50:15 lone 55:15 longer 33:21 108:16 122:25 215:5 look 11:5 15:22 16:24 18:11 19:8 21:4 32:13 37:16 38:9 44:20 46:12,16 49:23 71:7,18,20 75:25 76:16 88:16 98:25 120:5 127:15 130:7,9 131:4 132:2 135:14,16,18,20 136:4,8 137:19 139:3 142:17,19,21 148:5,14 151:19 167:11 168:2,11 169:5 172:14 173:25 175:4 176:6 177:19,23 178:11 186:23 199:11,20 200:5 201:21 204:18 213:15 216:21 looked 9:23 24:6 26:8 39:10 42:4 74:6,21 101:3 101:4 115:20 128:12,13,17 146:24 150:9 165:4 182:13 187:24 194:4 207:15 209:4	211:16 217:12,13 looking 11:13 24:23 25:4 42:6,7,11 46:5 73:5 79:10,15 84:15 93:24 94:10,12 95:25 111:3 115:15 125:5,10 129:18 130:9 133:17 134:11 135:23 136:2,7 137:7 139:25 140:9,10,13 140:16 141:7,13,16 141:19,20,25 142:11,21 145:11 147:6 148:13 151:20 154:3 155:24 166:5 167:22 168:15 170:13 172:22 173:10 176:19 182:5 187:18 188:6 188:8,10,11,13 190:7 193:6 201:10 202:12,18 204:8 218:15,21 looks 46:3 49:8 57:15 58:3 58:8,14 61:8 135:23 139:17 146:24 152:2 167:20 173:23 174:4,24 177:25 200:13 218:14 loss 9:10 59:22 60:13 104:18 lost 133:15 lot 10:14,19 37:14 66:22 88:21 93:24 104:9 140:16 142:20 144:24 145:23 152:10,11 154:11	157:19 160:25 167:7 low 214:4 lower 174:15 200:24 lug 153:24 lunch 123:2 <hr/> M <hr/> M 223:2 Madam 49:8 MAGNA 1:24 MAGNA-21 1:24 magnify 13:6 mailing 69:14 main 2:5 116:22 117:2,4,8 117:19 maintain 56:3 maintains 55:21 majority 207:17 208:18,24 making 40:10 218:3 manage 35:12 152:22 management 35:3 56:7 81:16 manager 186:11,14,18 manifest 136:18 manufactured 71:6,11,14 79:24
---	--	--	--

80:21 100:25 149:23 manufacturer 92:25 manufacturers 118:5 manufactures 82:13 manufacturing 42:16 43:8,18,22 82:22 100:19 map 11:24,25 12:11 189:5 189:14 190:16 191:4,5,18 193:22 mapping 11:14,15,21 188:21 188:24,25 189:23 190:11,14 191:15 Marcellin 1:4 5:12,15 15:25 16:6,15,22 18:3 19:24 20:3,11 22:6 22:10,17,22 30:9 37:25 39:7 56:2 70:15,16,24 71:4 73:2,11,21,23 74:11 74:16 75:6 76:25 77:3 81:21 83:15 85:21,25 86:5 90:9 92:15 96:8 98:11 102:9 105:4,9 175:24 197:9 Marcellin's 5:19 14:17 19:17 70:22 83:16 84:9 85:9 90:18 101:2 104:6 115:25 147:22 169:12 206:5 219:10 Marcellus 186:13 Marcellus' 186:22 March	1:14 30:3,3 223:9 226:21 Marine 30:22 33:6 mark 51:7 176:12 marked 49:7,13 51:14 52:14 52:22 56:25 67:9,11 67:16 marking 51:4 markings 71:8 75:14 marriage 226:17 Martin 9:21 30:10 36:16 37:9 81:6 83:24 97:2,13 98:21 99:19 99:25 100:4 101:22 102:15,19 105:22 106:17 116:13 167:18 170:4 177:17 Martin's 9:25 80:17 105:24 125:17 Massachusetts 2:9 59:21 match 101:12 mated 162:21 materials 71:22 87:18 180:19 208:19 209:8,23,25 210:3 212:19 214:15 matter 19:7 63:9 66:3 70:5 226:19 matters 59:8 mean	16:20 39:22,23 40:12 44:6 55:24 62:12,14 69:11 96:20 105:14 131:15 146:21 150:18 154:14 156:18 157:4,19,25 181:22 184:19 193:2 198:19 218:12 220:18 meaning 24:5 27:15 28:16 30:8 34:2 46:17 64:9 105:11 190:10 208:21 209:12 means 47:15 132:10 134:25 meant 150:20 mechanical 35:19,20 47:10 mechanism 159:9 169:15 medication 12:19 meet 5:4 153:11 154:10,23 melt 161:13 melted 143:8 melting 163:15 189:23 190:2 190:2 member 47:23 48:11,13 memorialized 22:6 memory 14:19 18:17 22:24 59:17 71:19 76:20 mention 41:22 mentioned 10:24 30:6 32:17 41:16 53:7 120:21	215:17 mentions 146:8 MEP 35:18 merely 52:20 171:12 message 55:4 messy 38:18 method 14:7,11 middle 113:24 174:3 197:13 Military 33:17 34:21 million 94:14 mind 19:19 67:22 80:10 minds 94:2 mine 213:24 minutes 67:22 68:3 123:9 misspoke 60:19 mitigate 188:18 Mm-hmm 119:13 model 16:8,19,21,21 17:25 70:12,20 98:10 162:4 modular 38:6 moment 109:6 Monroe 31:12 morning 197:12
--	--	--	---

motor 60:2 200:21	41:21 52:15 57:25 78:13 123:7 158:2 195:14	80:11 81:13	noticed 76:14
mouse 138:14 143:12	needed 23:11,21 120:12	non-nonelectrical 185:19	notwithstanding 175:18
move 13:7 29:23 171:21 217:3	neither 80:21 205:19	nonelectric 204:13 205:6	number 32:18 116:19,24 117:23 119:23 127:6 133:23,24 134:12 137:13 171:24,25 172:5,15 207:22,22,24 208:13
moved 120:19 131:13	neutral 153:25	nonelectrical 204:23	numbers 190:9
moves 119:18	never 87:15	normal 6:20	
moving 124:13 131:7	new 1:2,14,14,23 2:5 4:18 29:22 35:8 36:18,19 36:20 38:2,10 59:25 184:23 223:3 226:6	Notary 1:22 4:7 223:22 224:23 226:5	
multiple 140:20 141:5 142:10		note 82:7 124:21	
		notebook 14:17 16:17 17:20,25 43:11,18 47:6,9 61:5 62:16 70:6,14 70:16,23,25 71:4 73:3,11,21,24 74:11 74:14,16 75:6 77:3 78:17,19 81:21,22 85:25 89:22 90:10 90:11,19 91:24 92:7 92:15 96:9,14,23 97:5,11 98:12 100:6 100:8,13 101:2 102:8,9,13,20 104:7 105:4,5,8,10,17 106:25 107:3,12 115:5,25 156:22 157:11 159:11,17 159:19 163:14 169:13,16 173:2 174:9 212:21 219:19,22 220:6,12	
		new-ish 96:4	
		newer 14:20 91:6,24	
		NFPA 47:23 48:21 106:12 107:16 109:2 111:18,24 179:18 179:21 187:22 189:16 193:6 206:17	
		nice 5:4 37:20	
		nicely 38:19	
		night 61:3	
		nighttime 197:13	
		nine 131:7,10 133:2 134:9 139:11 140:10 141:21 142:12 155:16,21 171:25	
		Nineteen 180:15	
		nomenclature 127:10	
		non-authorized	
		notice 27:3 136:10 212:18	

144:10,11 192:18 192:23 194:24 obviously 81:2 93:7 131:23 141:11 175:19 occur 166:24 occurred 24:2 October 6:8 49:12 50:20 51:3 52:22 58:13,16 67:8 73:12 74:10,12 75:18,23 77:16,25 81:19 83:3 84:5,18 84:24 85:2 86:16 95:2,8 odds 169:22 offer 96:6 130:11 131:2 210:25 212:9,12 office 55:10 66:9,14 69:16 202:12 212:17 officer 3:18 oh 217:6 okay 6:7,9,18 7:6,11 8:9 8:14,24 9:11 10:4 13:2,9,17,22 14:6 15:22 16:5,13 19:6 20:9 22:2 25:2 26:14 27:7,14,24 28:12 29:12 30:5 31:20 32:2,17,23 33:9 34:13 37:7,23 41:13 42:10,15 44:13 45:4,10 50:19 50:24 51:5,21 52:13 52:25 53:4,13 54:13 55:2,20 56:22 58:10 59:7 60:20 61:4	63:6 64:5,14,17,20 65:8,11,14,18,22 67:7 68:14 69:19,25 70:16 71:3,13,20 72:3,12,22,24 73:10 73:16 75:17,22 76:10 80:4 83:2,9 86:14 87:17 88:4,10 90:16 92:6,13 94:8 95:8,22 96:6,12,16 97:3,9,21 100:5 101:18 102:17 103:7,19 105:6,19 106:11 111:17 112:21 114:7 116:15,17 117:19 119:20 121:8,13,25 124:2,13,15 125:5 125:24 127:11 128:5,12,24 129:5 129:11 131:4,9 132:14,21 133:16 134:11,17 145:8 146:7 147:10 148:25 149:10,18 150:16 151:10 154:14,25 155:13 156:3,11 161:6,17 161:19 162:25 164:11 165:4 167:13,21 169:18 171:3,19 172:14 173:10 174:23 175:8,10 176:24 178:7,11,20 179:4 179:10 180:3 181:6 183:3 185:6,17 187:5 190:7 191:22 194:16 196:17,23 197:16 200:3 201:2 202:18 203:2,19 204:10,16 205:2,14 205:24 212:10 213:18 215:2,12 217:12,24 219:8	220:5,22 221:22 old 29:4 38:10,24 39:2,7 59:19 217:4,5,6 219:18,22 older 14:19 118:3 220:2 once 35:10 44:22 55:15 91:16 130:11 148:6 168:7,8 173:12 201:23 ones 10:23 32:3 125:14 185:11,18,20 190:3 199:25 212:13,14 ongoing 184:20 oOo- 3:24 open 184:19,22,24 185:4 210:22,23 211:10 211:12,17,22,25 212:6,14 opens 136:22 operate 55:17 operated 145:18 149:17 200:18 201:11 operating 86:11 148:17 operation 17:3 opine 114:8 opining 179:5 opinion 61:25 62:6 63:4 96:7 114:4 115:8,9 126:12,16,17,23 128:19 129:4,25	130:4,12,15 131:2 150:9,14,24 151:6 159:3,10,18,19 168:19 177:14 178:17,23 179:2 183:4 202:3,14 210:25 212:4,9,13 214:11,16 opinions 52:3,10,18 56:23 64:7 67:13,13 68:19 68:22 69:3 205:21 219:6 221:17 opportunity 91:17 111:21 opposed 17:14 170:15 opposing 216:12 opposite 207:19 208:20 209:17 order 1:21 24:18 120:4 orderly 39:16 ordinarily 97:15 98:24 organization 89:11 origin 17:11 46:3,24 48:16 50:15 53:12 103:23 103:25 106:16,22 106:24 110:8 121:21 128:22 131:2 181:19 192:7 193:11,15,19,24,25 194:7 201:12,16,24 203:20 205:13 206:12 216:13 217:21 original 81:22 83:4 84:7,12 85:6 87:16 90:11,13
--	---	--	--

90:13	108:2 112:6	180:13,24	69:20
Originally		panel	passed
216:2	P	36:11 117:11 118:4	47:20
other's	P	119:11,15	paste
56:19	2:2,2	paper	111:9
outcome	p.m	49:20,24 50:6 75:2	pasted
47:17 226:19	222:13	papers	108:24 109:13
outlet	pack	212:23 213:3 214:8	patina
39:5	17:19 42:19 43:7	214:13,20	141:23
outline	60:24 62:23 74:23	paragraph	patterns
176:9	75:15 78:18,19,22	113:23,24 179:18	46:4,6 130:22 131:3
output	79:4,21,23,23 80:11	180:4	165:19 201:19
160:11,13	80:12,19 81:4,17	paragraphs	Pavilion
outputting	82:13,20 83:19 84:7	68:16,18	70:8,11,12,21 86:18
160:10	85:6 87:12,16 96:17	paraphrasing	87:2,7,13 90:17
outset	97:4 98:7 100:25	106:21	92:2 98:4,6,9,18
194:22	106:9 107:4 125:4	pardon	99:20 100:14
outside	158:6,17 164:24	172:23	106:25 114:11,13
9:7 10:25 15:20	166:25 167:15	part	150:10,25 159:5
22:11 38:16 44:18	168:19	7:13 14:10 16:3	184:7
45:8 66:22 81:5	packets	35:15 36:7 45:5	PDF
86:17 96:10 101:7	135:18	46:25 48:3,5 70:18	139:18
116:12 126:14	packs	93:9 95:19 99:3	peer-reviewed
195:21 214:23	87:25 88:5,12	103:17 117:14	43:11
oven	page	133:22 134:3	pending
88:23 197:18 198:4	50:10,20 52:2 57:8	163:17 185:15	7:22
198:11,21	57:15,16,23 58:4,19	188:12 207:21,25	Pennsylvania
ovens	58:21 67:18 68:11	217:22 220:9	60:7
198:25	68:24 69:4 72:4,5	particular	people
overcharge	72:20 97:19,22	15:4 16:9,17,20 46:6	30:6 186:12 216:19
156:17 157:2	104:12 105:20,20	50:10 55:19,22 80:6	perceived
overhaul	113:10 116:16	81:17 90:6 118:9	46:8
103:16 131:14,24	123:21 124:14,14	121:5 125:20 135:4	Perfect
overhead	127:19,22 128:13	135:15 162:4	152:7
216:4	129:9,18 131:5,7,8	198:22	perfectly
overvoltage	131:10 145:9,10	particularly	80:8
156:17 157:2,4,18	150:4,4 163:2,6	25:6 32:20 177:19	perform
158:16	171:21,22,23 175:9	parties	11:18 55:7 76:25
owner	179:16 181:7	3:6 76:14 91:14	88:6,11,17
53:10 54:16	184:16 186:9	186:4 192:6 193:23	performed
oxidizer	187:25 213:15	201:23 202:9,12,16	78:10,16 220:25
112:6	225:4,9	226:16	performing
oxidizers	pages	partly	220:13
107:25	50:4 57:10,16 58:3	75:8	period
oxygen	64:12 71:21 72:19	parts	30:25

person 148:11	147:6 151:23 168:4 200:7,9	plug 144:19,20 145:5 146:5 147:12 151:21,22 152:10 152:16 153:9,10,14 153:24 154:9,17,24 155:2,4,7,15,21 156:8,19,21 172:25	6:12 116:6 146:22 199:2 204:10,22 205:4
personal 16:15 34:11	physical 27:9 70:22 74:4 95:9 170:8 181:12,17 182:9,15,23 183:4 221:3	plug-operated 145:19	post 115:2
personally 33:24 34:4 73:2	physically 203:10	plugged 121:22 122:9,11,14 134:24,25 144:11 144:13,25 145:4,20 146:2,3 151:17 152:9,19 156:16,25 157:9 166:20 173:3 173:15 174:9,12	potential 32:13 41:9 53:25 54:18 75:14 92:4,24 140:5 144:5 165:2 166:13,24 167:3 168:12 169:8 170:5 170:10 183:14,25 184:5,10,14,23 192:16,22 194:5 195:7 198:12,16,18 201:8 203:7 216:6
perspective 42:7	Picard 35:17	plugs 152:15	power 61:2 135:6 146:10 200:19 216:19,20 216:22
pertained 35:22	picked 74:5	plumbing 35:20,21	powered 149:13
pertains 9:10 12:16 33:2 89:3 104:17	picture 119:10 120:17 128:7 129:17 214:6 218:2 218:22	point 65:13 84:8,25 168:10 187:14 200:17	precluded 47:19
pertinent 32:3,7	pictures 148:5 209:5 212:11	pointing 153:22 167:23	prefer 49:23
pet 43:25 215:23 217:18	piece 133:25	points 40:6 169:6	preliminary 6:11
Pg 224:3	pile 133:9	pole 60:2	premised 26:7
phone 7:15	pixed 173:13	portion 46:14,15 54:4 73:7 154:23 199:8 200:24 202:24 214:22	preparation 9:7 10:12,22 71:24 72:18 205:20
phonetic 186:17 197:23	place 144:11,13 158:11 171:10,11	positions 116:25 117:3,22 119:18,24 120:8,19 121:2	prepare 9:2
phosphor 139:23 141:24	places 210:7	possible	prepared 206:7
photo 136:3 138:8,19 139:18 140:8 142:7 144:18 147:6,7,11 147:14 164:16 173:12 176:13,21 177:25	plaintiff 59:4,5,6		presence 29:4 164:5
photograph 71:19 128:18 129:22 149:5,9 157:14 163:13 171:6,10 172:22,25 173:17 176:7 177:21 218:13	Plaintiffs 1:7 2:4		present 8:15 19:11 75:23 186:4 192:6 199:15 202:10 218:14,17
photographs 9:16 56:10 94:21 148:10 150:5 151:11,14,15,19	plastic 40:4 143:7,14 153:11 163:16		presented 4:4
photos 9:9,24 10:2 136:4	plates 41:5,8		
	please 4:10,15 7:10 13:7 15:7 28:20 59:20 79:9,15 108:21 152:7 168:22 173:5 173:21 193:4		

preserve 91:15 110:20	196:2,2,8	223:22 224:23 226:5	24:20,25 25:9 26:7 29:10 30:14 40:16
pretty 31:4 38:7 39:15 175:12 193:2 199:16 200:14	product 13:19 15:2,4,9,10,16 15:23,25 16:2,7,16 44:14,15 46:11,18 80:3 82:23 83:5 90:7 93:18 99:2	publications 64:2 89:15	41:14 52:9 54:14 72:16 79:14 80:15 80:25 81:7 82:18 85:23 99:5,10,23 100:23 102:6 105:13 111:11 112:22 116:10,25 128:5,18 129:8 145:13 146:11 150:9,12 156:23 157:17,20 159:20 163:12 165:5,14 167:13 182:5 184:9 185:8 187:22 191:22 193:10 195:12,24 207:4 208:16 210:5 214:3 215:16 221:14
prevent 127:13	products 59:14 60:21 87:2 93:20	pull 37:18 50:9 132:5 200:4	questions 5:11 12:23 19:19 20:10,21,22 33:19 73:18 82:2,5,6,19 83:3 84:6 97:24 175:16 187:3,10,11 187:12 205:18 221:20 222:3,11
prevented 106:6,8	professional 33:10,12,14 42:18 43:6	pulling 119:6	quick 127:16
previous 54:10 169:22	program 43:5	puppy 60:10	quickly 6:12 175:13
previously 5:24 6:2 23:12,22 28:10 58:23 141:12	progressed 193:16 199:9	purchased 14:20 85:17 101:9	quite 158:24
primarily 11:14 13:15 92:19,20 93:13	progression 192:8	purpose 39:13 130:20	quizzing 76:20
primary 29:20	project 35:3,3,12 36:18,21 55:11,13	purposes 50:24	quotation 109:14
print 57:11	properly 37:15	pursuant 1:20	quote 109:15
printed 152:4	proposed 108:8,13,15 112:13 112:18,20	purview 45:6 113:5	
prior 18:25 54:12 67:4 103:17	protect 41:9	pushing 161:9	R
probably 109:3 121:8 143:23 175:12 205:16	protected 144:22 145:2,5,6,25 152:14,18 153:3 154:4 155:18	put 8:2 46:19 50:3 51:22 56:12 57:12 103:23 108:23 111:2 112:23 127:18 138:10 200:7 205:17,24 218:6	ratings
problem 57:12 116:11 151:25 173:22	protection 41:4,21 136:15,19 154:13 155:5,11 156:14	puts 106:22	
proceedings 34:6	provide 52:10 103:13,15	putting 131:23	
process 6:10 53:16 101:19 189:4 195:10,20	provided 52:5,19 146:10 180:6 180:10,23 183:15 221:24	qualified 44:3 45:11 59:10	
produce 6:15 13:15 139:7 190:15,24 191:5 196:7	public 1:22 4:7 103:10	question 3:12 5:17 6:16,17,22 6:25 7:4,8,22 15:8 15:17 16:12,17 20:8 21:11 23:7,15,18	
produced 13:19			
producing			

179:6 reaching 69:3 read 87:5 104:18 107:17 121:23 150:12 157:6 181:13 183:18 206:8 223:7 224:3 reader 52:21 readily 177:4 reading 41:13 150:12 182:20 reads 6:16 224:3 real 127:16 realize 108:16 151:22 really 95:23 102:21 129:13 129:15 149:3 154:3 175:3 195:18 reason 7:20 18:20 20:17,22 22:14 117:16 192:3 192:11 rebuttal 51:8,11 52:3,15 53:2 53:4 67:10 205:15 225:12 recall 24:2 27:5,12 29:8 60:14 62:22 69:22 69:24 76:8 83:17 85:14 86:20 87:8 95:18 137:22 149:24 160:12 175:24 176:2 185:13 187:5,10 197:10,21 213:14 218:3 219:3 receipt	101:8 received 32:25 receptacle 121:20 124:5,10 144:21 145:3,24 156:20 172:9,12 173:3,15,23 174:2 174:11 175:6 188:4 receptacles 36:10 145:21 146:9 188:7 rechargeable 89:22 recollection 103:22 198:2 209:5 218:10,20 recon 132:10 record 4:11 98:3 127:20 223:11,14 226:12 recorded 20:6 records 56:4 57:6 70:3 197:17 recovered 125:12 126:18,24 128:14,21 147:16 165:7,15 207:16 209:2,9,22,24 210:2 211:24 rectangle 153:5 176:16 red 153:5 154:7 178:5 redo 38:23 redone 38:10 refer 8:10 50:25 53:3 96:25 103:9 105:14 116:13 125:17	126:5 127:4 179:17 179:18 216:19 reference 70:10 94:22 106:15 107:16 181:7 182:21 188:3 references 72:7,14 105:21 180:15,18,24 187:18,19,24 189:24,25 referral 66:7 referred 89:7 103:24 106:23 182:8 188:10 referring 25:12,15 52:21 132:25 181:16 reflected 56:24 57:5 69:4 refresh 71:19 198:2 218:9,19 regard 21:18 55:19 116:14 167:19 170:4 195:3 214:18 regarding 104:14 183:15 regards 28:23 35:21 71:17 78:12 80:14 88:25 103:15 125:21 187:3 201:7 regular 188:23 190:4 related 11:8,10 102:11 226:16 relates 104:16 relationship 108:9 112:14 relative 126:10	relatively 176:4 199:7,24 200:13 201:5 relevant 20:21 182:4 189:10 194:15 relied 32:21 179:24 202:7,8 202:15 relocatable 216:18,22 rely 25:5 relying 190:23 remain 185:3 remained 75:16 92:22 remaining 183:16 remains 75:11 132:23 133:18 134:7 136:9 143:8 163:7 175:18 177:7 208:25 210:14 220:20 remember 19:6 29:3,7 61:13,17 61:21,22 62:21 103:20 107:21 112:2 187:16 219:13,19 REMOTE 1:13 remotely 1:19 removed 131:19 renewal 36:13 repaired 191:18 repeat 15:6 118:22 126:21
---	--	---	--

replacement 80:12	76:15 90:6	197:19	77:6,7 87:8 88:7
report 8:8 9:16,25 10:12 11:2 21:14 25:3,11 25:14 26:6,9,13,16 30:7 32:4,21 49:11 49:17 51:2,2,4,8,12 52:3,11,15,21 53:2 53:4 57:9 63:4 67:8 67:19 68:12 69:5 71:21 72:5,18 80:17 86:16 96:7 97:20,25 104:12,14 105:22 106:17,20 110:3,9 111:13 113:8,13 114:16 116:16 119:6 123:22 124:21,24 127:20 129:10 130:18 131:5 132:16 146:8 146:18 163:2 170:24 179:16 180:11,14 182:21 184:16 185:9,12,19 187:15,22,23 203:4 204:20 205:15 208:6 213:16,19 225:11,12	representative 76:6 94:18 95:18,21 148:8 186:5,7 201:14,15 representatives 76:5 request 7:21 requested 104:13 221:23 require 149:19 required 41:4 requirements 149:25 requires 108:7 112:12 research 53:11 101:8 reserved 3:13 residence 5:14,21 29:20 37:25 40:18 42:13 192:5 residential 35:23 37:11 resistance 137:14 188:9 resistor 137:11 resolution 142:8 respect 5:20 22:23 27:2 29:3 32:25 34:16 71:3 77:3 78:17 86:15 102:8,19 119:22 143:24 175:14 194:18 217:18 219:17 respective 3:6 responded	responding 131:18 responsibilities 34:19 responsive 195:22 rest 6:22 192:5 193:17 restate 182:11 restricted 107:6 192:4 result 83:25 84:4 148:19 189:5 216:24 resulting 108:2 112:7 retained 18:22 19:10,13 66:2 66:12 retaining 54:24 retiring 34:20 reverse 138:20 154:15,18 reversing 77:23 review 8:11 10:21 13:2 20:24 21:5,10 44:23 44:25,25 48:3,4 77:10,13 88:9 95:7 100:7,13,18 105:22 110:22 111:22 122:15 125:17,20 185:22 186:19,22 204:24 205:3 206:19 219:10 reviewed 9:8,16 10:4 19:17 20:23 24:7 25:23 26:2,16 28:9,12,18 58:5 71:23 72:18	reviewer 186:10,11 187:9 reviewing 85:3 reviews 186:14,15 right 7:4,24 8:24 14:4 17:15,20 18:4,15 19:16 26:4,18,23 37:12 38:25 41:19 47:4 52:7,23 58:24 71:15 84:12 85:21 86:5 89:9 90:19 94:11 96:2,14 99:2 104:19 105:17 106:13 108:25 109:23 115:25 120:19 121:23 124:11 125:8,12 128:7,15 134:18 135:9 138:9,18,23 142:5,18 143:25 144:18 146:15,20 147:17 149:2 151:8 159:6,13 162:23 164:13,20 167:8,17 167:24 169:16 170:12 172:6,17 174:5,11,25 177:2 177:23 178:12 179:13 180:17 181:13 183:18 187:17 192:24 196:5,24 199:17 200:15 202:11,22 203:11 207:3 213:6 217:11,15 220:14 rim 143:10 rings 148:15,22 149:2,3

RIT 36:23 37:4 robustly 195:16 Roby 190:11 Rochester 2:5 31:16 roll 133:14,23 room 8:15 103:25 106:22 106:24 121:20 124:11 126:7 127:8 130:25 145:21 160:25 170:11 177:8 192:4,7,12 193:17,24,25 194:4 194:6 201:16,24,25 202:13 205:13 206:11,12,23 207:3 207:8,19 208:14,21 209:23 210:2 211:3 212:16,17 room/office 191:24 192:2 203:18 rooms 192:12 root 170:2 RPC 216:6,17 217:13 rude 7:2 rule 102:12 145:14 217:14 ruled 62:3,7 146:13 rules 6:12 run 40:25 runaway 101:20 125:15,22	137:4 141:16 167:16,20 running 14:22,24 RYOBI 60:23 61:8,12,25 62:8,11 78:21,25 161:17 162:2 <hr/> S S 1:4 2:2 safer 31:3 safes 106:5,7 safety 98:3,20,25 99:20 100:7 Saffron 4:18 29:21,23 sake 94:23 salaried 54:22 saw 165:19 191:18 192:9 208:6 218:10,20 saying 8:19 40:13 55:4 74:16 86:7 91:21 92:19 94:13 110:23 155:23 161:8 168:21,24,25 169:24 171:14 182:13 195:3 200:14 202:20 says 72:7 99:12 116:22 119:17 124:4 181:10 183:11 193:7 216:22 scan 11:3 77:6,7 220:25 scans	86:17 scenario 157:2 scene 10:18 12:5,7,8,15,17 19:4,11 22:18 26:21 46:13 53:20 54:3,8 54:11 77:18,25 84:17,21,22 91:4,12 92:8 103:13,21 125:12 147:17 168:12 186:8 190:6 207:13 218:5 220:10 scenes 189:12 schedule 55:16 schematics 100:14 school 30:18,21 31:9,11 35:15,16 Schwarz 2:6 4:25 5:10,16 9:6 10:9 15:13 23:5,13 23:23 25:7 26:4 30:9,13 49:16,19 65:24 66:25 67:20 83:22 98:5,13 99:4 103:2,7 109:9,16,23 110:6,19 111:6 113:12,15 118:14 122:17 123:6,14 150:17 157:15,24 170:19 171:3 209:11 215:12 222:6,10 Schwarz's 66:9,14 scientific 14:7,11 79:17 scope 15:20 16:3 44:18 45:9 47:2 81:5	96:11 97:6 102:10 116:12 126:15 184:13 202:2 214:23,25 217:20 217:23 screen 13:4 50:8 108:21 112:24 128:3 138:11 152:3 163:23 scroll 57:24 58:2 60:3 sealing 3:7 seating 200:25 201:4 second 18:12 53:2 72:10 105:21 111:23 secondary 132:12 Secondly 144:17 secretary 55:15 section 11:15,17 48:8 68:14 107:19 109:3 111:18,24 124:24 174:4 181:10 182:8 183:9,11,24 184:6 206:20 sections 107:18 sector 103:10 secured 133:15 185:7 see 21:12 37:19 38:20 39:6 42:12 49:25 51:23 56:18 57:20 58:3,20 63:18 68:3 71:25 72:6,9,13 73:4 91:18 95:11
---	--	---	---

109:7 111:19 112:8 112:20 114:2 116:20 119:7,10,12 119:14 121:18 124:6 127:5,16 128:2,6,9 129:12 132:24 135:17 136:18 137:20 138:2,11 139:10 140:7,17 141:7,23 142:24 143:2,3 144:18 145:2,4 146:23 148:13,21 148:25 149:3,5,10 152:9,13,19,20,22 153:11 155:16 156:4 160:6,20 162:13 163:3,10 167:16 169:3,5 171:9,11 172:2 174:2,15,21 176:8 176:13,22 177:3,6,9 177:25 180:7 183:10 187:19 200:4,8 206:4 209:6 210:17 218:7,12 seeing 48:20 143:8,14 seen 18:8,10 80:16 87:21 94:13 217:25 semi 21:8 semi-accessible 40:7 sending 55:3,18 senior 52:5 53:12 sense 25:12 40:10 55:20 70:25 80:24 145:8 156:11 161:6 169:23 187:4 195:19	sentence 118:19,22 124:3 181:15,24 182:2,6 183:11,24 separate 133:25 195:20 sequence 108:7 112:12 182:16 183:16 sequences 181:8 183:14 sergeant 30:24 33:20 serious 14:3,8 serve 47:24 services 1:24 71:24 73:6 180:19 set 36:19 67:12 68:23 226:10 setting 37:8 68:16 130:14 seven 123:22 129:9,19 213:16 sewing 103:25 106:23 191:23 192:2 202:13 203:18 212:17 sewing/office 201:17 shaded 60:2 shaking 8:20 shape 94:20 95:11 176:5 shapes 139:16 share 49:8,22 50:8 108:20	sheet 76:2,17 224:2 shine 140:25 shinier 152:10 shipped 87:12 shoot 41:10 136:24 short 68:7 123:18 191:10 200:20 215:13 Shorthand 226:4 show 130:21,22 138:19 144:22 145:6,25 152:8,18 154:18 155:17 157:13 160:25 161:3 166:6 167:7 171:5 173:23 189:15 191:3 207:21 210:10 214:7 showed 145:22 154:13 211:25 showing 164:16 171:16 210:20 shown 154:4 208:8 shows 135:24 145:7 155:5 155:10 163:2,13 165:22 166:8 174:18 208:2 side 119:15 136:9 139:6,8 141:12,18,21 149:6 164:9 170:23 199:6 208:20 sides 171:14	sign 144:10 sign-in 76:2,17 Signature 224:18 signed 3:17,20 223:19 significance 56:23 57:5 64:7 68:23 69:3 70:2 82:15 124:23 204:6 significant 69:8 signs 135:11,13,20,24 140:4,7,11 142:24 154:13 155:5,10 161:3 175:14 211:25 similar 76:13 90:17 91:11 143:23 144:8 Similarly 8:21 simple 157:20 simply 46:19 80:20 single 141:22 sir 8:17 12:20 68:13 181:5 sit 12:22 20:9 63:19 site 126:19,25,25 127:2 203:25 sites 130:10 189:13 sits 162:3 situation 162:22
--	---	--	---

six 6:6 68:3 116:16 124:4 213:17	sooted 174:13,20	20:14,18 22:17 23:3 106:4	standard 88:3
six-foot 133:11	sooting 152:20 174:6,24 175:5	speaking 39:25 105:23 179:11 194:20	standards 86:25 87:4,10,24 89:21
size 92:20 94:20 95:11 96:2	sorry 15:6 16:12 23:19 26:25 39:21 70:17	special 47:24	standpoint 114:21 115:17 136:5
sizes 139:16	118:15 126:21 150:17 163:18	specific 21:3,11 29:10 44:23 45:2 50:3 70:14	stands 216:18
sleeping 197:6	165:12 173:21 182:11 198:3	80:6 82:7 87:4 88:2 159:9 187:11 194:6	Staples 1:10 5:7
slightly 100:22	209:19 216:16	194:18 196:22	start 7:8 194:21
slots 162:15	sort 46:11 148:14 166:15 176:9	specifically 24:23 60:2 87:9 89:3 197:21	started 4:21 126:20 127:3 128:20 129:2 130:3
slow 57:25	sound 18:15 52:23 71:15,16 148:17	specifics 24:18,24 65:23 187:16 195:14	130:8,15 132:11 170:3 174:6 177:15
small 57:18 136:11 142:3 164:15	sounds 52:24 68:5 93:23 123:14	specify 98:14	178:12,15,18 197:4 201:24 202:19 204:23 208:9
smaller 139:2	source 107:25 108:4,11,13 108:14 112:5,9,16	split 133:9,12	starting 57:23 174:14,20 198:25 210:21
smoke 145:7,23 147:16,19 147:24 148:4,20 149:12,20	112:18,19 135:6 179:7,13,15 181:13	spoke 118:20	state 1:23 4:10,15 59:21 59:24 60:6 72:25
soak 132:7	181:18,20 182:10 182:16,23 183:5	spoken 10:7	98:3 113:20 121:19 124:2,8 163:6
software 213:24	192:17,22 194:3,23 198:13 199:12	spot 136:11	166:17,22 180:3 185:7 223:3 226:6
solar 36:11	203:8 204:11,23 205:5	spotlight 141:2	stated 131:6,11 145:11 146:12 150:7,10
sold 85:20 86:4	sources 62:7 168:13 170:6,11 183:25 184:5,10,12	spring 31:17	184:17,18
solution 50:16	184:15 194:5 204:18	square 139:20 152:23 155:10 173:19	statement 20:25 22:3,10,15 24:5 25:16,21,24
somebody 194:9	space 40:8 209:3	174:10,22 178:5	26:17 27:17,17 52:17 108:17,18
somewhat 102:11	spaces 37:11	squares 156:12 176:13,15	169:19,23
soot 147:24 148:3,19 152:11 173:24 175:7 176:12	spark 29:10	stage 93:14	statements 22:5,12 24:4 25:5,10 25:18,20,23 26:20 27:8,15 28:14,16
	speak	stand 61:3	

112:23 219:11 states 1:2 30:22 52:2 107:20 172:4 steam 59:22,23 STEPHEN 2:6 stickers 75:14 sticking 147:2 Stips 4:23 stipulated 3:4,10,15 11:2 STIPULATIONS 3:2 stored 135:8 144:15 167:2 straightening 78:5 Street 2:5,9 strewn 133:10 strips 216:20 structure 38:5 40:18 studs 40:24 41:2,6,7 study 89:12 stuff 38:24 64:2 style 118:3,11 subject 11:4 47:14 48:23 104:6 105:3,4,7,17 106:25 107:3 115:5 168:7 204:21 212:21 subscribed	223:19 224:19 Subsection 109:21 subsequently 216:11 substance 9:4 83:21 189:9 substantial 11:6 sued 34:2,3 sufficient 108:5 112:10 suggestive 170:14 suggests 173:2 174:8 Suite 2:5,9 summary 30:17,20 34:18 68:19 71:25 92:3 109:10 191:19 super 196:22 supplemental 67:15 206:5 supply 39:24 support 59:4 121:6 supposed 37:16 137:14 217:10 suppression 103:16 131:14,21,22 suppressors 216:21 sure 16:11 30:20 34:22 50:12 74:19 81:24 88:18 95:24 123:10 132:3,7 139:3 152:25 153:19 155:3 165:14 173:6 176:10 186:24	217:25 surface 154:2 surge 216:20 surrounding 137:21 survey 11:13,15,19,23 124:10 189:3 190:14,17,25 191:3 191:16,23 192:11 193:20 surveying 191:14 suspected 216:3 sustain 196:3 swallowed 208:15 swelled 135:23 sworn 3:17,20 4:7 224:19 226:11 synopsis 73:6,8 system 32:11 36:9 37:24 52:4,19 56:7 60:12 63:14 81:16 86:11 91:10 102:22 104:15,25 105:15 105:16 110:12 114:14,23,24 115:16 170:9 184:8 216:10 221:10 systems 36:2,7 190:5 201:22 <hr/> T <hr/> T 4:2 223:2 226:2,2 tails	129:16 take 7:19,23 12:19 22:9 22:14 28:20 35:5 46:12 55:25 73:16 111:8 122:19,22 144:7 157:7 191:7 200:5 213:15 215:4 215:5 taken 17:21 21:7 43:4 68:8 77:15,17 123:19 191:11 215:14 223:8 talk 10:13 32:2 70:11,13 79:13 102:24 204:14 206:15 207:6 214:17 talked 28:15 34:13 37:7 58:24 63:2,7,12 66:3 67:9 81:6 100:21 115:6 124:20 141:12 155:15 161:18 165:17 177:11 179:21,22 180:12 205:14 206:2,3 220:22 221:5 talking 25:17 27:16 41:18 70:12,19,21 98:15 103:3 105:15 121:16 127:24 138:12 140:15 152:24 153:4 154:12,21 162:13 170:21 178:4 191:14 199:18 201:7,11 210:21 219:15 talks 80:17 tarnished
---	--	---	---

155:24	testified	135:16,22 136:25	34:23 35:15 42:2
task	4:8 59:11 109:24	157:19 188:5,17	54:8,12 68:9 72:4
47:24,25 48:2,5	159:4 169:11 201:6	193:7 214:8 217:9	73:17 75:6 82:18,25
team	206:6 209:21	think	84:22 85:19 86:2
16:10 83:23	testimony	6:6 17:6 34:14 48:19	91:25 92:5,18 106:6
tear	58:21 84:9 110:5	54:13 66:3 76:6	114:10 121:22
78:24	118:16 147:23	77:5 81:11 99:9	122:9,11,14,22
technical	166:20 197:9 201:3	100:21 102:5 104:4	123:6,20 132:19
130:14 186:10,15,24	204:21 223:8 225:2	105:6,12 115:6	150:2 162:2,9,11
187:4,9 189:23	226:12	118:17,20 123:21	166:19 172:16
Technician	testing	130:20 143:22	175:22,25 184:14
33:6	77:4 88:5 183:13	147:11,20 149:8	191:7,12 197:11,18
technique	221:3	158:2,8,13,19,20	205:17 215:15
196:13,18	tests	183:10 195:12,21	218:11,21 222:7,13
techniques	77:2 86:14 88:6,11	197:2 200:6 207:24	timekeeping
189:18 190:12	88:20	215:6,8 217:24	56:11
technology	text	219:17	times
31:16 53:11 119:5	119:14	thinking	6:6 53:8 94:5 116:9
tell	thank	28:19 41:23 60:18	139:21 144:24
10:11 38:14 129:14	9:22 16:23 33:22	161:7 205:16	181:11,17 182:8,14
129:17 146:22	41:13 53:6 68:6	third	toaster
147:13 148:2	73:8 78:5 104:8	124:3 179:17	197:18 198:4,11,20
162:17 167:21	113:15 123:16	thought	198:24
187:23 221:8,11,12	129:20 171:4,19	46:9 53:24	today
telling	190:19 222:6,8,11	three	5:18 6:14 8:6,15
9:3 65:22 107:6	thermal	25:4,10,17,19,22	10:23 12:20 20:10
tells	74:25 101:20 121:4	57:16 58:3 64:12	27:25 28:8 63:20
27:22	125:15,22 134:13	68:15 71:21 72:20	70:10 189:10 201:3
temperature	134:16 136:14,19	72:23 82:10 105:20	221:12,20 222:7
139:24	136:21,23 137:4	116:9 124:18	told
ten	140:3,8 141:15	127:22 130:17	63:22 71:13 103:21
93:8 145:10,11,12	143:25 163:20	133:24 134:8 136:3	185:4
217:10	164:4,6 166:6	172:2,6 180:13,18	ton
term	167:16,20 175:19	180:25	89:17
24:16 131:24 188:25	209:6 210:6,15	throw	tones
terminology	213:8,12	24:20	8:22
189:8	thing	throwing	top
terms	37:21 41:23 106:17	104:9	18:6 24:2 27:5,13
16:21,22,23 36:9	116:2 138:15,23	ties	29:9 61:15 62:24
38:14 53:18 74:22	142:15 217:5 219:9	189:20	86:20 87:3 88:3,14
91:2 104:10 195:19	219:16	time	101:16 160:12
210:24	things	1:20 3:13 7:20 14:23	162:3 163:13
test	11:13 26:15 28:15,22	20:21 22:18 26:12	173:15 177:22,23
14:12 79:11 88:16,24	28:25 36:10 38:3	26:15 27:18,20	177:24 206:24
125:25	95:25 130:23	28:17,20 30:25	213:2,4 214:5

total 39:24 57:16 193:5	165:9,15,18 223:10 223:14 226:12	95:6 99:13 109:11 132:2 200:21	202:21 216:25 221:19
trace 172:19	try 8:2,22 73:17 100:24 101:5 119:9 152:21	types 36:12 38:8 81:14 137:9	understanding 13:25 54:9 79:12,16 81:20 104:3 105:24 106:3,19 159:15 169:19 195:2 197:5 197:8 204:17
traced 172:8,11	trying 7:2,3 43:2 85:24 94:8 97:9 99:16 101:7 113:21 142:16 143:15 154:19	typical 11:7,11 38:4 40:21 40:22 93:4 95:22 99:24 137:8	understood 17:4 21:5 33:23 42:2 53:5 58:19 62:18 66:24 71:2 79:22 111:5 116:10 168:18
tracking 142:25	tubing 40:4	typically 45:24 53:19 54:6 66:11,17 92:17 101:19 117:4 118:4 118:5 137:24 139:20 140:19,22 141:4 167:16 200:23	Underwriters 86:23
trade 31:8	turn 49:6 57:8 67:18 68:11 106:4 109:3 113:10 117:8,10 145:9 162:25 175:9 222:4	<hr/> U <hr/>	undetermined 104:2
trained 117:8	turned 117:14 175:24	uh-huh 8:23	unfair 99:10
training 43:4	Turning 97:19	uh-uh 8:23	unfortunately 60:10 142:7 147:5 162:9
transcript 6:15,23 8:21 18:11 18:13 19:18 20:24 223:7,10	turns 137:17	UL 86:19,22,24 87:10,13 87:23 88:5	unit 59:24 61:2
transcripts 18:9	twisted 147:4	unattended 60:9 63:8 215:19	United 1:2 30:22
transfer 206:22	two 27:2,8,15 56:24 60:16,20 62:20 67:15 71:21 72:19 73:3 97:23 104:12 133:7,23 134:4,6 136:3,7 138:9 147:15 149:12,15 154:6,17 180:13,18 180:24 190:9,22 200:9 216:6,9 217:6	unauthorized 80:21	units 200:20
transmission 141:6	two-by-four 40:17	uncharged 166:15	unmanned 31:2
travel 69:13,20	type 38:5 40:17,18 91:9	underneath 212:23	unplugged 122:2,4,6 197:25
treatise 49:3 179:19		understand 5:18 13:17,22 16:11 21:21 24:11 40:11 40:15 41:17 43:3 44:11 55:23 56:6 59:18 70:6 79:8,15 80:13 85:22 86:6 99:16,18 105:10 148:9 151:12 154:14 159:22 170:12 194:16	updates 14:23,25 58:15
treatises 179:23			upgrade 36:3
trial 1:17 3:13 59:11			uploading 56:14
trip 118:6,7,8,11,25 119:2 121:4			use 7:15 17:3 24:15 53:17 56:8 93:12 106:8 131:25 188:20,23 189:10 205:17
Triple 89:8			
tripped 120:24 172:16			
tripping 158:9,21			
trips 119:18 120:8			
true 79:6 82:20,23 90:5			

usual 4:23 utilized 80:2	200:17 violations 42:8,11 visual 74:5 visualize 142:17 voltage 160:13 161:9 vouchered 74:6 185:20 207:15 vouchering 92:7	217:8 wasn't 15:14 38:15,24 42:6 42:7 45:5 83:18 95:15,19 147:7 152:19 168:24 watch 62:17 way 23:2 24:18 36:8 47:21 57:19 58:14 82:24 83:6,10 87:19 120:25 146:4 154:16 156:21 169:14 170:2 171:14 178:17 187:8 202:14 211:7 220:23 226:18 ways 136:7 weak 136:11 Webster 4:18 29:21 weed 162:14 week 58:17 went 31:6,10,15 67:7 105:19 137:4 172:24 189:16 195:10 207:13 211:15 212:11,16 220:23 weren't 19:20 42:11 75:3 81:23 213:5,10 214:20 217:25 WESTERN 1:2 whacker 162:14 white 156:8	wider 141:5 win 35:11 wind 36:13 window 59:25 windows 118:9 wire 39:4 41:4,12 wired 37:15 149:13 wires 40:19,25 41:6 147:2 147:4 wiring 38:8,12 39:8 wise 187:7 withdrawn 63:10 witness 1:18 4:3,12,17 20:25 22:3,11,14 24:5 25:20,24 68:5 110:17 123:3,8,16 222:8 225:4 226:9 226:13 wondering 32:19 78:15 word 81:8 110:22,22 113:25 116:8 199:23 work 32:25 35:8,17,19,24 36:5,15,25 50:6 53:13 54:23 56:19 56:22 69:2,9 86:15 89:16,18 90:22 92:10 95:6 194:20 205:3 worked
<hr/> V <hr/>	<hr/> W <hr/>		
value 137:14 varies 117:6 variety 135:22 various 40:6 88:6 139:16 210:9 211:3 213:8 213:11 varying 130:24 211:21 vector 196:13,18 vent 82:10,11 124:18,19 136:12,13,22 141:14 176:10,22 venting 178:10 vents 176:20 verbal 8:19 verbiage 74:20 verification 4:6 version 142:18 versus 80:20 81:13 95:12 168:4 190:2 212:7 victim 162:17 167:5,14,22 168:3 VIDEOCONFERE... 1:13 view	W 4:2 223:2 waived 3:8 walked 195:5 wall 39:4,20 40:14 41:2 121:20 124:5,9 144:21 145:22 wallboard 40:20 walls 37:18 39:16 want 24:19 49:22 50:9 74:19 110:25 122:19,24 132:3 140:24 151:20 152:25 173:4 176:10 184:3 221:8 wanted 19:21 98:14 194:10 ward 36:6 warning 44:23,24 warnings 44:14,16,21 45:5 warranty		

34:25 42:15 64:21 65:19 66:24 67:3 87:9 working 54:15 216:2 works 81:7,9 123:5 153:19 wouldn't 91:16 98:24 99:3,6 99:12 100:6 135:6 136:10 140:17 149:21 160:20 161:14 174:16 179:4 212:8,12 220:16 write 48:7 104:13 writer 179:20 writing 22:7 106:13 written 6:15 21:14 22:10 43:10 wrong 38:20 170:17 wrote 26:9,12 48:20 104:12 www.MagnaLS.com 1:25 <hr/> X <hr/> x 1:3,12 X-ray 161:3 X-rays 77:10,14,15 78:3 120:4 221:2 <hr/> Y <hr/> yeah 17:7 23:20 50:9 115:22 146:7 158:23 193:9	218:24 year 71:16 217:9 years 29:25 30:23 59:19 76:20 93:8,12 217:6 217:10 yellow 139:22 141:23 170:13,21 York 1:2,14,14,23 2:5 4:19 29:22 59:25 223:3 226:6 <hr/> Z <hr/> Z 4:2 zero 166:21 zoom 1:19 7:14 63:17 138:16 152:6 <hr/> 0 <hr/> 02110 2:9 <hr/> 1 <hr/> 1 49:7,13 51:5 52:23 57:2 67:9 127:21 225:11 1,000 64:18 1:21-cv-00704-JLS 1:9 10 123:9 10,000 64:18 10:00 1:15 100 65:12,16 11	147:15,20 150:4 11:10 68:4 1100 2:5 12 163:2,6 207:24 12:20 122:24 12:40 123:13 14 49:12 50:20 86:16 150:4 151:21 171:22,22,23 225:11 144.4.3 181:25 1450 2:9 14580 4:19 29:22 14614 2:5 14th 52:22 67:8 15 163:3 165:8 166:5 170:24 175:9 185:7 185:25 186:2 16 179:16 17 67:18 68:11 69:4 113:11 175 2:9 18 184:16 18650 62:15,18 92:17,18,22 94:19 95:23 96:4 18650s 93:4,7,16,24 94:3,14 94:15	19 57:10 72:4,14,20 109:18 172:10,22 172:23 180:14,17 180:25 187:25 19.4.2 112:21 19.6.5.2 107:20 109:22 111:19,25 194 193:8 1941 38:22 19443 181:7 182:14 19652 108:18 <hr/> 2 <hr/> 2 51:8,15 52:14 57:2 67:11 225:12 2/27/2020 19:12,14 2:05 191:9 2:40 215:8,11 2:50 222:13 20 1:14 57:9,15,23 65:6 123:9 223:9 2003 30:21 2009 188:25 2010 71:14,16 89:23 2013 31:14 2016 31:17 34:15 37:4 2019
---	---	--	---

92:7	51:9,13 52:10 225:13		
2020			
5:14,21 30:3 83:3	4		
84:5,17,19 149:20	49		
149:22	225:11		
2024			
48:9 49:12 50:21	5		
51:3,10,13 52:11	5		
58:13 86:16 225:11	225:5		
225:13	5,000		
2025	64:18		
1:14 223:9,20 224:20	50		
226:21	65:9,14,20		
21	51		
58:19 177:7,22	225:12		
178:21			
22	6		
58:22	6		
23	11:16 48:2 110:14		
18:25 57:16 58:4			
84:9	7		
23rd	747		
18:4,14	4:17 29:21		
24			
5:14,21 106:13	8		
24th	866		
18:4	1:24		
25			
123:11	9		
26-page	11:16 48:3,4,7		
49:10 50:14 225:11	921		
27	11:7,11,12 48:21		
83:3 84:17,18	106:12 107:16,18		
27th	111:6,18,24 179:18		
73:12,12,19 74:10,12	179:21 187:22		
75:17,18,23 76:10	189:16		
77:2,16,21,22,24			
81:19 84:24 85:2			
28			
2:5 226:21			
3			
3.3.74			
112:8			
31			